

**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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**WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

ADMINISTERED BY THE

**COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS**

FIRST SESSION

VOLUME XIV

ON

**THE INQUIRY INTO WHETHER IMPROPER CONDUCT
OCCURRED WITH RESPECT TO THE OPERATION,
INVESTMENTS, AND ACTIVITIES OF WHITEWATER
DEVELOPMENT CORPORATION, MADISON GUARANTY
SAVINGS & LOAN, CAPITAL MANAGEMENT
SERVICES, AND RELATED MATTERS**

NOVEMBER 27; DECEMBER 4, 5, 12, 14, 18, 19, AND 21, 1995
JANUARY 5, 10, 15, 16, 17, 18, 19, 22, 24, AND 25, 1996

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

DEPOSITIONS

BEFORE THE

**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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DEVELOPMENT CORPORATION AND RELATED MATTERS

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104TH CONGRESS
1ST SESSION

S. RES. 120

Establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. D'AMATO (for himself and Mr. DOLE) submitted the following resolution;
which was considered and agreed to

RESOLUTION

Establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

1 *Resolved,*

2 SECTION 1. ESTABLISHMENT OF SPECIAL COMMITTEE.

3 (a) ESTABLISHMENT.—There is established a special
4 committee administered by the Committee on Banking,
5 Housing, and Urban Affairs to be known as the “Special

1 Committee to Investigate Whitewater Development Cor-
2 poration and Related Matters" (hereafter in this resolu-
3 tion referred to as the "special committee").

4 (b) PURPOSES.—The purposes of the special commit-
5 tee are—

6 (1) to conduct an investigation and public hear-
7 ings into, and study of, whether improper conduct
8 occurred regarding the way in which White House
9 officials handled documents in the office of White
10 House Deputy Counsel Vincent Foster following his
11 death;

12 (2) to conduct an investigation and public hear-
13 ings into, and study of, the following matters devel-
14 oped during, or arising out of, the investigation and
15 public hearings concluded by the Committee on
16 Banking, Housing, and Urban Affairs prior to the
17 adoption of this resolution—

18 (A) whether any person has improperly
19 handled confidential Resolution Trust Corpora-
20 tion (hereafter in this resolution referred to as
21 the "RTC") information relating to Madison
22 Guaranty Savings and Loan Association or
23 Whitewater Development Corporation, including
24 whether any person has improperly commu-

1 nicated such information to individuals ref-
2 erenced therein;

3 (B) whether the White House has engaged
4 in improper contacts with any other agency or
5 department in the Government with regard to
6 confidential RTC information relating to Madi-
7 son Guaranty Savings and Loan Association or
8 Whitewater Development Corporation;

9 (C) whether the Department of Justice has
10 improperly handled RTC criminal referrals re-
11 lating to Madison Guaranty Savings and Loan
12 Association or Whitewater Development Cor-
13 poration;

14 (D) whether RTC employees have been im-
15 properly importuned, prevented, restrained, or
16 deterred in conducting investigations or making
17 enforcement recommendations relating to Madi-
18 son Guaranty Savings and Loan Association or
19 Whitewater Development Corporation; and

20 (E) whether the report issued by the Office
21 of Government Ethics on July 31, 1994, or re-
22 lated transcripts of deposition testimony—

23 (i) were improperly released to White
24 House officials or others prior to their tes-
25 timony before the Committee on Banking,

1 Housing, and Urban Affairs pursuant to
2 Senate Resolution 229 (103d Congress); or
3 (ii) were used to communicate to
4 White House officials or to others con-
5 fidential RTC information relating to
6 Madison Guaranty Savings and Loan As-
7 sociation or Whitewater Development Cor-
8 poration;

9 (3) to conduct an investigation and public hear-
10 ings into, and study of, all matters that have any
11 tendency to reveal the full facts about—

12 (A) the operations, solvency, and regula-
13 tion of Madison Guaranty Savings and Loan
14 Association, and any subsidiary, affiliate, or
15 other entity owned or controlled by Madison
16 Guaranty Savings and Loan Association;

17 (B) the activities, investments, and tax li-
18 ability of Whitewater Development Corporation
19 and, as related to Whitewater Development
20 Corporation, of its officers, directors, and
21 shareholders;

22 (C) the policies and practices of the RTC
23 and the Federal banking agencies (as that term
24 is defined in section 3 of the Federal Deposit
25 Insurance Act) regarding the legal representa-

1 tion of such agencies with respect to Madison
2 Guaranty Savings and Loan Association;

3 (D) the handling by the RTC, the Office of
4 Thrift Supervision, the Federal Deposit Insur-
5 ance Corporation, and the Federal Savings and
6 Loan Insurance Corporation of civil or adminis-
7 trative actions against parties regarding Madi-
8 son Guaranty Savings and Loan Association;

9 (E) the sources of funding and the lending
10 practices of Capital Management Services, Inc.,
11 and its supervision and regulation by the Small
12 Business Administration, including any alleged
13 diversion of funds to Whitewater Development
14 Corporation;

15 (F) the bond underwriting contracts be-
16 tween Arkansas Development Finance Author-
17 ity and Lasater & Company; and

18 (G) the lending activities of Perry County
19 Bank, Perryville, Arkansas, in connection with
20 the 1990 Arkansas gubernatorial election;

21 (4) to make such findings of fact as are war-
22 ranted and appropriate;

23 (5) to make such recommendations, including
24 recommendations for legislative, administrative, or

other actions, as the special committee may determine to be necessary or desirable; and

(6) to fulfill the constitutional oversight and informational functions of the Congress with respect to the matters described in this section.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs; and

(B) the chairman and ranking member of the Committee on the Judiciary, or their designees from the Committee on the Judiciary.

(2) SENATE RULE XXV.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as the chairman or other member of the special committee shall not be taken into account.

(b) ORGANIZATION OF SPECIAL COMMITTEE.—

(1) CHAIRMAN.—The chairman of the Committee on Banking, Housing, and Urban Affairs shall serve as the chairman of the special committee

1 (hereafter in this resolution referred to as the
2 "chairman").

3 (2) RANKING MEMBER.—The ranking member
4 of the Committee on Banking, Housing, and Urban
5 Affairs shall serve as the ranking member of the
6 special committee (hereafter in this resolution re-
7 ferred to as the "ranking member").

8 (3) QUORUM.—A majority of the members of
9 the special committee shall constitute a quorum for
10 the purpose of reporting a matter or recommenda-
11 tion to the Senate. A majority of the members of the
12 special committee, or one-third of the members of
13 the special committee if at least one member of the
14 minority party is present, shall constitute a quorum
15 for the conduct of other business. One member of
16 the special committee shall constitute a quorum for
17 the purpose of taking testimony.

18 (c) RULES AND PROCEDURES.—Except as otherwise
19 specifically provided in this resolution, the special commit-
20 tee's investigation, study, and hearings shall be governed
21 by the Standing Rules of the Senate and the Rules of Pro-
22 cedure of the Committee on Banking, Housing, and Urban
23 Affairs. The special committee may adopt additional rules
24 or procedures not inconsistent with this resolution or the
25 Standing Rules of the Senate if the chairman and ranking

1 member agree that such additional rules or procedures are
2 necessary to enable the special committee to conduct the
3 investigation, study, and hearings authorized by this reso-
4 lution. Any such additional rules and procedures shall be-
5 come effective upon publication in the Congressional
6 Record.

7 **SEC. 3. STAFF OF THE SPECIAL COMMITTEE.**

8 (a) **APPOINTMENTS.**—To assist the special committee
9 in the investigation, study, and hearings authorized by this
10 resolution, the chairman and the ranking member each
11 may appoint special committee staff, including consult-
12 ants.

13 (b) **ASSISTANCE FROM THE SENATE LEGAL COUN-**
14 **SEL.**—To assist the special committee in the investigation,
15 study, and hearings authorized by this resolution, the Sen-
16 ate Legal Counsel and the Deputy Senate Legal Counsel
17 shall work with and under the jurisdiction and authority
18 of the special committee.

19 (c) **ASSISTANCE FROM THE COMPTROLLER GEN-**
20 **ERAL.**—The Comptroller General of the United States is
21 requested to provide from the General Accounting Office
22 whatever personnel or other appropriate assistance as may
23 be required by the special committee, or by the chairman
24 or the ranking member.

1 SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE.

2 (a) IN GENERAL.—Consistent with the rights of per-
3 sons subject to investigation and inquiry, the special com-
4 mittee shall make every effort to fulfill the right of the
5 public and the Congress to know the essential facts and
6 implications of the activities of officials of the United
7 States Government and other persons and entities with re-
8 spect to the matters under investigation and study, as de-
9 scribed in section 1.

10 (b) DUTIES.—In furtherance of the right of the pub-
11 lic and the Congress to know, the special committee—

12 (1) shall hold, as the chairman (in consultation
13 with the ranking member) considers appropriate and
14 in accordance with paragraph 5(b) of rule XXVI of
15 the Standing Rules of the Senate, hearings on spe-
16 cific subjects, subject to consultation and coordina-
17 tion with the independent counsel appointed pursu-
18 ant to chapter 40 of title 28, United States Code,
19 in Division No. 94-1 (D.C. Cir. August 5, 1994)
20 (hereafter in this resolution referred to as “the inde-
21 pendent counsel”);

22 (2) may make interim reports to the Senate as
23 it considers appropriate; and

24 (3) shall make a final comprehensive public re-
25 port to the Senate which contains—

(A) a description of all relevant factual determinations; and

(B) recommendations for legislation, if necessary.

SEC. 5. POWERS OF THE SPECIAL COMMITTEE.

(a) **IN GENERAL.**—The special committee shall do everything necessary and appropriate under the laws and the Constitution of the United States to conduct the investigation, study, and hearings authorized by section 1.

(b) **EXERCISE OF AUTHORITY.**—The special committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978, including the following:

(1) **SUBPOENA POWERS.**—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside of the borders of the

1 United States to the full extent permitted by law.
2 The chairman, or any other member of the special
3 committee, is authorized to administer oaths to any
4 witnesses appearing before the special committee. If
5 a return on a subpoena or order for the production
6 of documentary or physical evidence is incomplete or
7 accompanied by an objection, the chairman (in con-
8 sultation with the ranking member) may convene a
9 meeting or hearing to determine the adequacy of the
10 return and to rule on the objection. At a meeting or
11 hearing on such a return, one member of the special
12 committee shall constitute a quorum. The special
13 committee shall not initiate procedures leading to
14 civil or criminal enforcement of a subpoena unless
15 the person or entity to whom the subpoena is di-
16 rected refuses to produce the required documentary
17 or physical evidence after having been ordered and
18 directed to do so.

19 (2) COMPENSATION AUTHORITY.—To employ
20 and fix the compensation of such clerical, investiga-
21 tory, legal, technical, and other assistants as the
22 special committee, or the chairman or the ranking
23 member, considers necessary or appropriate.

(3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree, the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the yielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning

1 shall alternate back and forth between members of
2 the majority party and members of the minority
3 party. In their discretion, the chairman and the
4 ranking member, respectively, may designate major-
5 ity or minority staff to question a witness or a panel
6 of witnesses at a hearing during time yielded by a
7 member of the chairman's or the ranking member's
8 party then present at the hearing for his or her
9 turn.

10 (5) TESTIMONY OF WITNESSES.—To require by
11 subpoena or order the attendance, as a witness be-
12 fore the special committee or at a deposition, of any
13 person who may have knowledge or information con-
14 cerning any of the matters that the special commit-
15 tee is authorized to investigate and study.

16 (6) IMMUNITY.—To grant a witness immunity
17 under sections 6002 and 6005 of title 18, United
18 States Code, provided that the independent counsel
19 has not informed the special committee in writing
20 that immunizing the witness would interfere with the
21 ability of the independent counsel successfully to
22 prosecute criminal violations. Not later than 10 days
23 before the special committee seeks a Federal court
24 order for a grant of immunity by the special commit-
25 tee, the Senate Legal Counsel shall cause to be de-

1 livered to the independent counsel a written request
2 asking the independent counsel promptly to inform
3 the special committee in writing if, in the judgment
4 of the independent counsel, the grant of immunity
5 would interfere with the ability of the independent
6 counsel successfully to prosecute criminal violations.
7 The Senate Legal Counsel's written request of the
8 independent counsel required by this paragraph shall
9 be in addition to all notice requirements set forth in
10 sections 6002 and 6005 of title 18, United States
11 Code.

12 (7) DEPOSITIONS.—To take depositions and
13 other testimony under oath anywhere within the
14 United States, to issue orders that require witnesses
15 to answer written interrogatories under oath, and to
16 make application for the issuance of letters rogatory.
17 All depositions shall be conducted jointly by majority
18 and minority staff of the special committee. A wit-
19 ness at a deposition shall be examined upon oath ad-
20 ministered by a member of the special committee or
21 an individual authorized by local law to administer
22 oaths, and a complete transcription or electronic re-
23 cording of the deposition shall be made. Questions
24 shall be propounded first by majority staff of the
25 special committee and then by minority staff of the

1 special committee. Any subsequent round of ques-
2 tioning shall proceed in the same order. Objections
3 by the witness as to the form of questions shall be
4 noted for the record. If a witness objects to a ques-
5 tion and refuses to answer on the basis of relevance
6 or privilege, the special committee staff may proceed
7 with the deposition, or may, at that time or at a
8 subsequent time, seek a ruling on the objection from
9 the chairman. If the chairman overrules the objec-
10 tion, the chairman may order and direct the witness
11 to answer the question, but the special committee
12 shall not initiate procedures leading to civil or crimi-
13 nal enforcement unless the witness refuses to answer
14 after having been ordered and directed to answer.

15 (8) DELEGATIONS TO STAFF.—To issue com-
16 missions and to notice depositions for staff members
17 to examine witnesses and to receive evidence under
18 oath administered by an individual authorized by
19 local law to administer oaths. The special committee,
20 or the chairman with the concurrence of the ranking
21 member, may delegate to designated staff members
22 of the special committee the power to issue deposi-
23 tion notices authorized pursuant to this paragraph.

24 (9) INFORMATION FROM OTHER SOURCES.—To
25 require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government;

(B) any person or entity purporting to act under color or authority of State or local law; or

(C) any private person, firm, corporation, partnership, or other organization;

to produce for consideration by the special committee or for use as evidence in the investigation, study, or hearings of the special committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions that the special committee is authorized to investigate and study which any such person or entity may possess or control.

(10) RECOMMENDATIONS TO THE SENATE.—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or

1 to answer interrogatories, in compliance with a
2 subpoena or order;

3 (B) the willful failure or refusal of any
4 person to answer questions or give testimony
5 during the appearance of that person as a wit-
6 ness before the special committee, or at a depo-
7 sition; or in response to interrogatories; or

8 (C) the willful failure or refusal of—

9 (i) any officer or employee of the
10 United States Government;

11 (ii) any person or entity purporting to
12 act under color or authority of State or
13 local law; or

14 (iii) any private person, partnership,
15 firm, corporation, or organization;

16 to produce before the special committee, or at
17 a deposition, or at any time or place designated
18 by the committee, any book, check, canceled
19 check, correspondence, communication, docu-
20 ment, financial record, paper, physical evidence,
21 photograph, record, recording, tape, or any
22 other material in compliance with any subpoena
23 or order.

1 (11) CONSULTANTS.—To procure the tem-
2 porary or intermittent services of individual consult-
3 ants, or organizations thereof.

4 (12) OTHER GOVERNMENT PERSONNEL.—To
5 use, on a reimbursable basis and with the prior con-
6 sent of the Government department or agency con-
7 cerned, the services of the personnel of such depart-
8 ment or agency.

9 (13) OTHER CONGRESSIONAL STAFF.—To use,
10 with the prior consent of any member of the Senate
11 or the chairman or the ranking member of any other
12 Senate committee or the chairman or ranking mem-
13 ber of any subcommittee of any committee of the
14 Senate, the facilities or services of the appropriate
15 members of the staff of such member of the Senate
16 or other Senate committee or subcommittee, when-
17 ever the special committee or the chairman or the
18 ranking member considers that such action is nec-
19 essary or appropriate to enable the special commit-
20 tee to conduct the investigation, study, and hearings
21 authorized by this resolution.

22 (14) ACCESS TO INFORMATION AND EVI-
23 DENCE.—To permit any members of the special
24 committee, staff director, counsel, or other staff
25 members or consultants designated by the chairman

1 or the ranking member, access to any data, evidence,
2 information, report, analysis, document, or paper—

3 (A) that relates to any of the matters or
4 questions that the special committee is author-
5 ized to investigate or study under this resolu-
6 tion;

7 (B) that is in the custody or under the
8 control of any department, agency, entity, offi-
9 cer, or employee of the United States Govern-
10 ment, including those which have the power
11 under the laws of the United States to inves-
12 tigate any alleged criminal activities or to pros-
13 ecute persons charged with crimes against the
14 United States without regard to the jurisdiction
15 or authority of any other Senate committee or
16 subcommittee; and

17 (C) that will assist the special committee
18 to prepare for or conduct the investigation,
19 study, and hearings authorized by this resolu-
20 tion.

21 (15) REPORTS OF VIOLATIONS OF LAW.—To re-
22 port possible violations of any law to appropriate
23 Federal, State, or local authorities.

24 (16) EXPENDITURES.—To expend, to the ex-
25 tent that the special committee determines necessary

1 and appropriate, any money made available to the
2 special committee by the Senate to carry out this
3 resolution.

4 (17) TAX RETURN INFORMATION.—To inspect
5 and receive, in accordance with the procedures set
6 forth in sections 6103(f)(3) and 6104(a)(2) of the
7 Internal Revenue Code of 1986, any tax return or
8 tax return information, held by the Secretary of the
9 Treasury, if access to the particular tax-related in-
10 formation sought is necessary to the ability of the
11 special committee to carry out section 1(b)(3)(B).

12 **SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.**

13 (a) NONDISCLOSURE.—No member of the special
14 committee or the staff of the special committee shall dis-
15 close, in whole or in part or by way of summary, to any
16 person other than another member of the special commit-
17 tee or other staff of the special committee, for any purpose
18 or in connection with any proceeding, judicial or otherwise,
19 any testimony taken, including the names of witnesses tes-
20 tifying, or material presented, in depositions or at closed
21 hearings, or any confidential materials or information, un-
22 less authorized by the special committee or the chairman
23 in concurrence with the ranking member.

24 (b) STAFF NONDISCLOSURE AGREEMENT.—All mem-
25 bers of the staff of the special committee with access to

1 confidential information within the control of the special
2 committee shall, as a condition of employment, agree in
3 writing to abide by the conditions of this section and any
4 nondisclosure agreement promulgated by the special com-
5 mittee that is consistent with this section.

6 (c) SANCTIONS.—

7 (1) MEMBER SANCTIONS.—The case of any
8 Senator who violates the security procedures of the
9 special committee may be referred to the Select
10 Committee on Ethics of the Senate for investigation
11 and the imposition of sanctions in accordance with
12 the rules of the Senate.

13 (2) STAFF SANCTIONS.—Any member of the
14 staff of the special committee who violates the secu-
15 rity procedures of the special committee shall imme-
16 diately be subject to removal from office or employ-
17 ment with the special committee or such other sanc-
18 tion as may be provided in any rule issued by the
19 special committee consistent with section 2(c).

20 (d) STAFF DEFINED.—For purposes of this section,
21 the term “staff of the special committee” includes—

22 (1) all employees of the special committee;

23 (2) all staff designated by the members of the
24 special committee to work on special committee busi-
25 ness;

1 (3) all Senate staff assigned to special commit-
2 tee business pursuant to section 5(b)(13);

3 (4) all officers and employees of the Office of
4 Senate Legal Counsel who are requested to work on
5 special committee business; and

6 (5) all detailees and consultants to the special
7 committee.

8 **SEC. 7. RELATION TO OTHER INVESTIGATIONS.**

9 (a) **PURPOSES.**—The purposes of this section are—

10 (1) to expedite the thorough conduct of the in-
11 vestigation, study, and hearings authorized by this
12 resolution;

13 (2) to promote efficiency among all the various
14 investigations underway in all branches of the
15 United States Government; and

16 (3) to engender a high degree of confidence on
17 the part of the public regarding the conduct of such
18 investigation, study, and hearings.

19 (b) **SPECIAL COMMITTEE ACTIONS.**—To carry out
20 the purposes stated in subsection (a), the special commit-
21 tee is encouraged—

22 (1) to obtain relevant information concerning
23 the status of the investigation of the independent
24 counsel, to assist in establishing a hearing schedule
25 for the special committee; and

(2) to coordinate, to the extent practicable, the activities of the special committee with the investigation of the independent counsel.

SEC. 8. SALARIES AND EXPENSES.

A sum equal to not more than \$950,000 for the period beginning on the date of adoption of this resolution and ending on February 29, 1996, shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special committee under this resolution, which shall include not more than \$750,000 for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(b)(11). Payment of expenses shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 9. REPORTS; TERMINATION.

(a) COMPLETION OF DUTIES.—

(1) IN GENERAL.—The special committee shall make every reasonable effort to complete, not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

(2) EVALUATION OF PROGRESS.—The special committee shall evaluate the progress and status of

1 the investigation, study, and hearings authorized by
2 section 1 and, not later than January 15, 1996,
3 make recommendations with respect to the author-
4 ization of additional funds for a period following
5 February 29, 1996. If the special committee re-
6 quests the authorization of additional funds for a pe-
7 riod following February 29, 1996, the Majority
8 Leader and the Democratic Leader shall meet and
9 determine the appropriate timetable and procedures
10 for the Senate to vote on any such request.

11 (b) FINAL REPORT.—

12 (1) SUBMISSION.—The special committee shall
13 promptly submit a final public report to the Senate
14 of the results of the investigation, study, and hear-
15 ings conducted by the special committee pursuant to
16 this resolution, together with its findings and any
17 recommendations.

18 (2) CONFIDENTIAL INFORMATION.—The final
19 report of the special committee may be accompanied
20 by such confidential annexes as are necessary to pro-
21 tect confidential information.

22 (3) CONCLUSION OF BUSINESS.—After submis-
23 sion of its final report, the special committee shall
24 promptly conclude its business and close out its af-
25 fairs.

1 (e) RECORDS.—Upon the conclusion of the special
2 committee's business and the closing out of its affairs, all
3 records, files, documents, and other materials in the pos-
4 session, custody, or control of the special committee shall
5 remain under the control of the Committee on Banking,
6 Housing, and Urban Affairs.

7 **SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.**

8 The jurisdiction of the special committee is granted
9 pursuant to this resolution, notwithstanding the provisions
10 of paragraph 1 of rule XXV of the Standing Rules of the
11 Senate relating to the jurisdiction of the standing commit-
12 tees of the Senate.

**DEPOSITION OF ARNOLD HAWKINS
IN RE: S. RES. 120**

MONDAY, NOVEMBER 27, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ARNOLD HAWKINS, called for examination pursuant to notice of deposition, at 3:10 p.m. in Room 240-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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WITNESS

EXAMINATION

Arnold Hawkins

by Mr. Dinh 6

P R O C E E D I N G S

MR. DINH: Mr. Hawkins, my name is Viet Dinh. I'm with the Majority staff of the special committee to investigate Whitewater Development Corporation and related matters. The special committee was created by Senate Resolution 120, which created the special committee, as I noted, under the administration of the Senate Banking Committee.

Section 1(b)(3)(E) of Senate Resolution 120 permits the special committee to conduct an investigation into and public hearings about the sources of funding and the lending practices of Capital Management Services, Incorporated and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds to Whitewater Development Corporation.

That, I anticipate, will be the subject matter of today's deposition. As I told you before, the deposition will be taken under oath, and a court reporter is present in order to record the questions and answers. You have the right to be represented by counsel. Are you represented by counsel,

4

Mr. Hawkins.

THE WITNESS: No, I'm not.

MR. DINH: And also just for me to state for the record, this deposition is being conducted via telephone. Mr. Glenn Ivey and I are on this end of the phone along with the court reporter in Washington, D.C. and Mr. Hawkins is at his home in Atlanta, Georgia.

And let me advise you that objections as to the form of the question may be noted for the record and you may refuse to answer a question based on two grounds, privilege or scope, and if you refuse to answer such questions, then the Chairman will ultimately decide whether the assertion of privilege and scope is valid or not. Do you have any questions so far, Mr. Hawkins.

THE WITNESS: No.

MR. DINH: This deposition, as I noted earlier, is conducted in anticipation of public hearings, which are ongoing right now in the Senate. You may be called to testify at those hearings. If you are called to testify at those hearings, then we

1 will notify you and four days prior to your testimony
2 you will receive a copy of your deposition transcript
3 for review and the limited purpose of preparing
4 yourself for those hearings.

5 I should note that the deposition
6 transcripts are treated as committee confidential and
7 their use is limited to your preparation for
8 hearings. You will also, if you so desire, be
9 provided with a copy of the transcript for the
10 purpose of making errata on the transcription.
11 Again, that's for the limited purpose and
12 transcription shouldn't be made public for any other
13 reason.

14 THE WITNESS: I didn't hear what you said
15 about -- I may be provided a copy of the transcript
16 for what?

17 MR. DINH: For the purpose of making any
18 corrections on the transcription, it's limited to
19 grammatical or limited transcription errors.

20 THE WITNESS: Okay.

21 BY MR. DINH: Not any substantive changes.

22 THE WITNESS: Okay.

1 MR. DINH: Do you have any questions so
2 far?

3 THE WITNESS: No.

4 MR. DINH: If you can swear in the
5 witness.

6 Whereupon,

7 ARNOLD HAWKINS

8 was called as a witness and, having first been duly
9 sworn, was examined and testified as follows:

10 EXAMINATION

11 BY MR. DINH:

12 Q Mr. Hawkins, can you tell me your present
13 employment status.

14 A I'm retired.

15 Q Since when have you been retired?

16 A Since August of '94 officially.

17 Q And where did you retire from? Where was
18 your place of employment prior to August 1994?

19 A U.S. Small Business Administration Office
20 of Inspector General.

21 Q And how long were you at that position?

22 A 20 years.

1 Q Okay. So what was your exact title in
2 1993?

3 A In 1993 I was the regional Inspector
4 General.

5 Q And is the Inspector General's office
6 divided into regions? Can you tell me how many
7 regions are composed within the Inspector General's
8 office?

9 A Yes. There are three.

10 Q There are three, and which region were you
11 the regional Inspector General for?

12 A The central.

13 Q And there you were operated out of Atlanta
14 also?

15 A Yes, I was.

16 Q And how long were you the regional
17 Inspector General?

18 A Since 1988, so it was roughly seven years
19 that I was in that position.

20 Q Okay.

21 A Prior to that time I was the special agent
22 in charge of the Atlanta field office.

1 Q Also with the Inspector General's office of
2 the SBA?

3 A Uh-huh.

4 Q Did there come a time that you became
5 familiar with or became aware of either David Hale or
6 Capital Management Services?

7 A Yes.

8 Q Approximately when was the first time you
9 had such awareness or knowledge?

10 A I believe it was April of '93, and the
11 reason that I have that date is because I went into
12 the office to review the field case file, which
13 unfortunately, does no longer exist, so I have not
14 been able to familiarize myself with any of the
15 details of this, but the case had a 0/93 case number,
16 which would indicate that it was opened in April of
17 '93.

18 Q Let me back up for one second. In
19 preparation for this deposition, you went into the
20 SBA's office in order to review the case file?

21 A Yes, I did.

22 Q But you were unsuccessful in doing so?

1 A That's correct.

2 Q The case file itself was not in the
3 regional Inspector General's office?

4 A The field file, which is located in
5 Atlanta, has been destroyed according to the records
6 that I saw. Now, I saw a list of their cases and it
7 was indicated that the file had been destroyed.

8 Q Was this destruction performed as a normal
9 course of business in record management in the
10 office?

11 A It would have been, yes.

12 Q This procedure was set up prior to -- do
13 you know when this procedure of record destruction
14 was instituted?

15 A No, I do not.

16 Q Was this procedure present when you were
17 the regional Inspector General?

18 A Yes, it was. Yes, it was.

19 Q Can you briefly explain to me what the
20 procedure is and how long the records are retained,
21 and at what point are they designated for
22 destruction?

10

1 A This may have changed because, you know,
2 I've been away from there, but generally at that time
3 we maintained -- the official file is maintained in
4 Washington, first of all. So the field file was
5 maintained in the regional office there. At the
6 completion of the case when we got in this particular
7 case, it was referred to the FBI, so once the FBI
8 was, we got a final resolution from them, we would go
9 ahead and close the file. Send any original material
10 to Washington for inclusion in that file up there.
11 And there should be -- should be -- everything should
12 be documented in the Washington file.

13 Q Okay. So the regional office file is a
14 duplicate of the Washington file?

15 A It's not -- basically, yes. It may not be
16 as complete as the one in Washington, but basically
17 it was used for investigative purposes.

18 Q But you stated earlier that at the close of
19 the investigation, whatever originals you may have
20 would be transmitted, it would be transmitted to
21 Washington for inclusion in the main Washington
22 file.

1 Were there documents -- as a general
2 matter, were there documents retained in the regional
3 office file that were not retained in the Washington
4 file?

5 A Generally not. The originals should have
6 gone into Washington originally whenever they were
7 received. But occasionally there were instances
8 where there would be originals stuck in the file and
9 copies sent to Washington, but that should have been
10 relatively rare.

11 Q But when you discover such originals, then
12 you would send them on to Washington at the
13 conclusion of the investigation?

14 A Correct.

15 Q And at the conclusion of the investigation,
16 is that when the regional office file is destroyed
17 according to this procedure?

18 A Right.

19 Q You said that there was some records at the
20 SBA office as to the destruction of the records. Do
21 you know when approximately the Capital Management
22 Services file was destroyed under this procedure?

12

1 A No, I do not.

2 Q What records were you referring to in the
3 regional SBA office's files that told you that the
4 file had been destroyed?

5 A I saw a list of their cases. Basically
6 what I was trying to do was identify the number of
7 the Capital Management file so I could pull the
8 file. And incidentally, I was there at a time when
9 the staff was -- there was only one person in the
10 staff and it was a new man who was really didn't seem
11 to have a good grasp of what was going on.

12 But I got a list of active cases from the
13 Secretary who's in the audit side that listed their
14 active cases or listed their cases and this was
15 included in there but it was -- the file was
16 indicated to be destroyed and we looked in the file,
17 in the file cabinet itself, and there was no file in
18 there with that number on it.

19 Q This was included in the list of active
20 cases?

21 A Well, no, it was not a list of active
22 cases. It was just a list of cases. The fact that

1 it was on the list probably indicates that it was
2 destroyed within the last, maybe within this fiscal
3 year. I'm not sure exactly what --

4 Q Right, but you saw a list of files and on
5 that list of files there was a listing for Capital
6 Management Services file and it also contained a
7 notation that the file had been destroyed?

8 A That's correct.

9 Q Were there other files on this list with
10 the same notation of having -- of the file having
11 been destroyed?

12 A Yes, there were.

13 Q Other than attempting to review the file at
14 the SBA, did you talk to anybody else or review any
15 other records in preparation of this deposition?

16 A No, I did not. The only other contact that
17 I had was Steve Marica contacted me prior to your
18 calling the first time and alerted me to the fact
19 that you'd be in contact with me.

20 Q Who is Steve Marica?

21 A He's the assistant Inspector General for
22 investigations.

1 Q He's based in Washington, D.C.?

2 A In Washington, correct.

3 Q Have you had any other discussions with
4 Mr. Marica after my call to you?

5 A No, I have not.

6 Q Have you had any other discussion with
7 anybody else at the SBA?

8 A No.

9 Q If I can return your memory back to April
10 of 1993 where you earlier testified that you first
11 became aware of the Capital Management case. Can you
12 tell me the circumstances surrounding your knowledge
13 of the case for the first time?

14 A About the only thing that I recall with
15 regard to the case was that we received a referral,
16 and I'm not sure if it came from our audit staff or
17 the program people in Washington, but we received the
18 referral, obviously it was the SBIC in Little Rock,
19 which was the fact that it was SBIC and the
20 circumstances, which I don't remember the
21 particulars, but I made a determination that it was
22 going to be very time-intensive as far as

1 investigative time goes.

2 Plus we did not have and do not have or did
3 not have at that time a anyone with investigative
4 presence in Little Rock or in Arkansas, for that
5 matter. So it would have involved assigning someone
6 out of Atlanta to work the case in all probability,
7 and at any rate, the decision was made that we would
8 refer it to the FBI. I think I had some discussions
9 with Washington with regard to it, I'm not sure if it
10 was Marica or Dave Hurd, who is Marica's assistant.
11 At any rate, we made the determination that we'd go
12 ahead and refer it to the FBI for those two reasons.

13 Q So did you -- you did not open up an
14 investigation of your own?

15 A That's -- yeah, that's correct. We did --
16 we did open a case file, but we opened it as a FBI
17 referral.

18 Q Okay. You basically reviewed the documents
19 contained in the referral from the SBA, and made the
20 determination from that that because of the time
21 intensity and because of your lack of investigative
22 capacity in Little Rock that you would refer the case

1 directly to FBI?

2 A That's correct.

3 Q Did you do any investigation other than
4 reviewing the case file referred to you from the SBA?

5 A No, we did not.

6 Q You did not conduct any field interviews?

7 A No.

8 Q You did not serve out any document
9 requests?

10 A No, I did not.

11 Q Do you know approximately what the time lag
12 was between your receipt of the referral from the SBA
13 and your decision to send the case onto the FBI?

14 A It would have been a relatively short
15 period of time. I'm certain it was probably no more
16 than a week.

17 Q You stated that you had some discussions
18 with Washington about the decision. Was it your
19 decision to make?

20 A Yes, it was. I believe that there were
21 some discussions with someone in Washington. I'm not
22 even absolutely sure of that.

1 Q But the case was referred to you as the
2 regional Inspector General for the central region?

3 A That's correct.

4 Q Did it go directly to you or did it go via
5 Washington?

6 A That I'm not sure about. If you have the
7 case file, I think that you can probably tell from
8 the stamp.

9 Q After you referred the case to the FBI, did
10 you have further contacts with the FBI in order to
11 follow up on the investigation?

12 A Yes, I did. I had probably -- well,
13 basically I contacted them monthly for a period of
14 probably about five months up until, let's see, it
15 would have been the end of April of '95 and -- I'm
16 sorry, April of '94 and the 1st of May I went on
17 leave and I had no further involvement with them,
18 with the case at all after that.

19 Q 1st of May 1994?

20 A Right.

21 Q But you were in monthly contact with the
22 FBI on the progress of their investigation prior to

1 April of 1994?

2 A That's correct. Basically what we were
3 doing is each month we prepared a significant case
4 summary, and I had included that, this particular
5 case in that summary, so each month I had to give an
6 update on it.

7 Q To whom does this summary get distributed?

8 A Well, it goes to the Washington staff, and
9 they compile it into a kind of a report that includes
10 all the field offices or all three central offices
11 and then the complete report goes back to the agents
12 in the field. It was basically an in-house document.

13 Q But it's just basically the case summary or
14 some work derivative thereof is then distributed
15 among all the agents of the SBA?

16 A Yes, at least it goes back to the field
17 offices. Now, the SAC should have been making it
18 available to all the agents.

19 Q What was the purpose of a significant case
20 summary?

21 A Well, the main reason is to keep everyone
22 abreast as to what was going on and what type of

1 violations were being investigated by the field
2 offices.

3 Q Other than employees of the SBA Inspector
4 General's office, was this report or the case summary
5 made available to anybody else?

6 A Not that I'm aware of. If it was, it was
7 done, you know, through the Washington office.

8 Q Who received those case summaries and then
9 prepared the report from those case summaries?

10 A It's conceivable that they, you know,
11 briefed program people or certain individuals in
12 Washington with regard to it, but none of that was
13 done at the regional level. At this level, at least.

14 Q Mr. Hawkins, who was your contact at the
15 FBI for this case?

16 A You know, I don't remember. There was one
17 agent that was assigned that my earlier contacts were
18 with, and then I also talked to some, you know,
19 female out there who I think was kind of like a
20 trainee or something at one time.

21 Q Does the name Steve Irons ring a bell to
22 you?

1 A Yes, it does.

2 Q That was the agent assigned to the case
3 with whom you had the earlier contacts?

4 A Yes, that's it.

5 Q By early contacts you meant like the
6 contacts from May 1993 through when?

7 A Yeah, I'm not sure that I contacted him
8 that early. I don't believe I did. I think the
9 first contact was probably towards the end of '93.

10 Q Was there anybody else you talked to at the
11 FBI other than the staff intern and Mr. Irons?

12 A I don't believe so. I think I talked to
13 the SAC out there one time and that may have been
14 Irons, but basically Steve Irons was the one
15 providing the information to us.

16 Q Were these contacts made by telephone?

17 A Yes, they were.

18 Q Did you ever meet Mr. Irons in person?

19 A No, I did not.

20 Q Did you have any other personal contact
21 with anybody at the FBI or Department of Justice with
22 respect to this case?

1 A Not that I recall. At one point towards
2 the end of -- I think it's just prior to the time
3 that I left, I think that -- my memory is not real
4 clear about this, but I believe that Mr. Irons told
5 me that the case had been transferred to -- or maybe
6 hadn't been transferred but that in essence what he
7 told me was that he was not going to be able to
8 provide any more information to me and that future
9 contacts should be made to the Department of Justice,
10 someone at the Department of Justice in Washington.

11 Q Okay.

12 A And I'm not sure that that person was ever
13 contacted.

14 Q Okay. Was this around the time of January
15 1994?

16 A I think maybe it was a little bit later
17 than that because it seems like it was just prior to
18 the time that I left there.

19 Q Okay. I want to direct your attention now
20 to the month of August of 1993.

21 A Okay.

22 Q This would be sometime in the months right

22

1 after you referred the case to the FBI; correct?

2 A Well, I think the case was referred in
3 April, if I'm not mistaken.

4 Q Okay. Well, our records indicate that the
5 case was referred from the SBA to the SBA IG on May
6 5th of 1993, just to give you a guideline as to where
7 we are.

8 A Okay.

9 Q And according to your testimony, within a
10 week or two after that was when you referred the case
11 to the FBI?

12 A Yes.

13 Q Did you have a conversation with Mr. Irons
14 in the month of August of 1993, to the best of your
15 recollection?

16 A I don't know. The contact -- you've got a
17 copy of the SBA file, do you not?

18 Q I do, yes.

19 A If I do, it should have been -- there
20 should be an indication in there or document in
21 there.

22 Q Right. It would be documented in something

1 called an administrative inquiry record?

2 A Probably, yes.

3 Q Now, what is an administrative inquiry
4 record?

5 A It's just a record of -- for the most part,
6 it's a record of contacts --

7 Q Okay.

8 A -- that we had in normal course of our
9 business.

10 Q Whenever you have a contact regarding a
11 case, you would file one of these inquiry records?

12 A Right.

13 Q I have -- because you have not had an
14 opportunity to review the file, I would just describe
15 this document to you. I have an administrative
16 inquiry record dated 8/10/93, and it is stamped,
17 Bates stamped 008, and it's indicated that the
18 interview was conducted by you, A. Hawkins, and
19 length of interview was 20 minutes. The name of the
20 interviewee, I take it, is Steve Irons, title, FBI
21 agent, and the nature of the problem is "I called
22 Irons to see if info IG Hoobler received regarding

1 pending indictment was accurate."

2 Do you remember this phone call so far?

3 A Very vaguely.

4 Q Hoobler at that time was the Inspector
5 General?

6 A Yes, he was.

7 Q I take it from this opening sentence that
8 you had some conversation with Mr. Hoobler prior to
9 placing this call?

10 A Yeah, I probably had a conversation with
11 Marica and Hoobler had had a conversation with --

12 Q With Marica?

13 A With Marica.

14 Q Was that your contact in Washington D.C.,
15 was Marica?

16 A He and Dave Hurd. Most of my dealings were
17 with Dave Hurd.

18 Q Either one of those two could have
19 expressed or conveyed Mr. Hoobler's questions to you?

20 A That's correct. I can't -- I don't
21 remember what exactly had transpired.

22 Q You don't recall the contact with either

1 Hurd or Marica that led to this phone call to Special
2 Agent Irons?

3 A No, I do not.

4 Q Did you -- do you remember that in August
5 of 1993 you received information regarding pending
6 indictments of Hale?

7 A Well, I don't remember that, but apparently
8 we did because of the references made to the
9 information that Hoobler has received.

10 Q Let me read the rest have your handwritten
11 record here in an effort to refresh your memory.
12 "Again, I called Irons to see if info IG Hoobler
13 received regarding pending indictments was accurate.
14 Irons advised that, 1, David Hale, principal owner of
15 Capital Management Services, Inc. would probably be
16 indicted in September 1993 on false statement charges
17 in connection with a phony donated capital scheme.
18 "2, the anticipated indictment relate to
19 matters on which the statutes will run in September
20 1993. Additional indictment will probably be
21 returned in October or November 1993 on more recent
22 violations. 3, Mark Stephens, SBA OGC was in Little

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1 Rock and has an affidavit for search warrant that
2 Irons prepared which summarizes investigative
3 results. No ROI has been issued."

4 And that's the end of your notations on
5 that inquiry record?

6 A Yes.

7 Q Does that refresh your memory regarding the
8 conversation?

9 A Somewhat, yes.

10 Q Do you remember the nature of the call?
11 The circumstances with which you put in this call
12 now, was it after a conversation with Marica or Hurd?

13 A I don't remember who the conversation was
14 with and it may have -- what was the date of that
15 again.

16 Q That was in August 10th, 1993,
17 Mr. Hawkins. But you don't remember how you came to
18 place the call?

19 A No, I do not. I feel certain that it would
20 have been as a result of information that was
21 transmitted to me through the Washington staff.
22 Beyond that, I don't recall. I do recall the fact

1 that they were indicting -- they were going to indict
2 on part of the counts earlier and hold off on some of
3 the others.

4 Q Right. And this was information you
5 received. And did you subsequently transmit this
6 information back to Washington or to Mr. Hoobler?

7 A The administrative inquiry form would have
8 gone up.

9 Q Okay. So this would be your method of
10 communication to Washington?

11 A In all probability. Now, I may have also
12 -- I may have also verbally told someone, but I did
13 not have any contacts with Hoobler, but I would have
14 told either Marica or Hurd, that's a possibility.

15 Q And do you know -- was this a standard
16 request from Mr. Hoobler's office to -- for
17 information regarding pending cases, did you usually
18 get requests from the IG's office regarding specific
19 information on individual cases?

20 A I don't think that it was a request for
21 information as much as it was -- I think I was told
22 what he had been told and that I had contact -- and I

1 had contacted to verify whether it was in fact true.

2 Q Right. Do you remember -- other than the
3 notations that I've just read to you regarding 1, 2,
4 and 3, the three things that Agent Irons advised you,
5 do you remember other specifics of the conversation?

6 A No, I do not.

7 Q Let me read you again -- and I apologize
8 for not having the document in front of you. There
9 are some things we have that even technology cannot
10 take care of, and so I will have to read it to you
11 over the telephone lines as such.

12 A That's fine.

13 Q Let me read you a document prepared by
14 Special Agent Steven Irons. Apparently they have the
15 same procedures as you do with administrative inquiry
16 record with respect to contacts relating to
17 individual cases --

18 A Okay.

19 Q -- on the same conversation. And I'll read
20 you the entire document for you and then I will
21 reread the sentences I want you to focus on.

22 A Okay.

1 Q So to put it in context, I'll read the
2 entire document.

3 To SAC Little Rock from SSA Steve Irons,
4 subject Thomas Anderson and other designations. Date
5 8/10/93. "On 8/10/93 writer returned a telephone
6 call from Arnold Hawkins, Office of Inspector General
7 Small Business Administration. Hawkins advised that
8 he had been advised by OIG SBA in Washington, D.C.
9 the Little Rock FBI might be charging David Hale soon
10 in captioned matter. He was advised that was correct
11 and there was five SBA employees in the FBI office at
12 that time preparing to close down Hale's company. He
13 asked for details and was told there was an apparent
14 fraud in that assets supposedly donated were returned
15 to the donors after Hale leveraged money at SBA.
16 Hawkins advised that was pretty much what all Small
17 Business Investment Companies, SBICs, did. Hawkins
18 was interested to know if anyone other than Hale
19 would be charged and was advised there might be a
20 lawyer who helped with some paperwork charged unless
21 investigation revealed he was a dupe.

22 "Hawkins asked if there were any reports

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1 available for dissemination and was advised that
2 there were none and none were anticipated. He was
3 further advised the investigation would probably
4 result in a final indictment for the false 1031
5 statements in late 1993 and then the SBA case would
6 be over. Hawkins advised he regretted there was
7 still no SBA manpower from OIG to assign to the
8 matter, but said he would help in any way needed. He
9 was informed no assistance from OIG was anticipated
10 being necessary."

11 I want to direct your attention now to two
12 particular sentences. "Hawkins was interested to
13 know if anyone other than Hale would be charged and
14 was advised there may be a lawyer who helped with
15 some paperwork charged unless investigation revealed
16 he was a dupe."

17 Do you recall if you can tell me what
18 prompted you to inquire as to who the individuals are
19 who would be charged as part of the investigation?

20 A I don't really recall. I would have been
21 interested to know whether it was, if it was just
22 Hale or if there were other people.

1 Q Did you have any information that would
2 have lead you to believe that other people were
3 implicated?

4 A I don't recall. I don't really recall.
5 I'm not sure, you know, if I knew what was the
6 information that was fed down to me from Washington.
7 It's conceivable that I did or at least have an
8 indication that there might have been more than one.

9 Q Right. Right. We have as much information
10 as you do. As a matter of fact, that's the purpose
11 of this deposition, is to inquire as to what you
12 know. So you did not have any specific recollection
13 with respect to why you may have been interested in
14 individuals other than Hale who may be indicted?

15 A Well, like I say, I may have, but at this
16 point in time I don't know what it would have been.

17 Q Do you know who this lawyer is that
18 Mr. Irons was referencing?

19 A I do remember that there was some questions
20 about an attorney out there.

21 Q This was an attorney representing Hale?

22 A I believe that he -- I believe that he was,

32

1 but I can't say that with certainty.

2 Q But he was an Arkansas attorney?

3 A I believe so, yes.

4 Q Does the name Richard Mays or Randy Coleman
5 ring a bell to you?

6 A What was the first name?

7 Q Richard Mays, M-a-y-s or Randy Coleman,
8 C-o-l-e-m-a-n.

9 A Neither name sounds familiar.

10 Q Did you at one point have knowledge of the
11 identity of this lawyer?

12 A I'm not sure. I don't believe that I did,
13 but the information with regard to the attorney came
14 from Steve Irons.

15 Q Okay.

16 A But I don't believe that I ever had his
17 name.

18 Q Let me direct your attention now to the
19 next sentence. "Hawkins asked if there were any
20 reports available for dissemination and was advised
21 there were none and none were anticipated."

22 Do you recall this inquiry of Agent Irons?

1 A I do not, but I would -- you know, had they
2 issued a report of any type, I would have wanted it.

3 Q For what purpose would you have --

4 A To update our file.

5 Q So when Agent Irons wrote that there were
6 any reports available for dissemination, did you take
7 that to mean for dissemination to you?

8 A Yes.

9 Q Or were you seeking reports for you to
10 disseminate to others?

11 A Oh, no, we were -- none of this information
12 would have gone out of the office.

13 Q It would have been treated as part of the
14 investigation within the regional office of the IG?

15 A Right.

16 Q Would they have been transmitted to
17 Washington, D.C. office of the IG?

18 A Yes, it would.

19 Q But that's not considered dissemination
20 since it was still being kept in-house within the
21 IG's office?

22 A That's correct.

1 Q And there would have been no reason for you
2 to disseminate any information with respect to the
3 investigation?

4 A Well, I'm sorry, say that again.

5 Q And there would have been no need for you
6 to disseminate any information with respect to the
7 investigation?

8 A Not outside of our office, no.

9 Q Did you handle any press inquiries
10 regarding the case?

11 A Oh, no.

12 Q Did anybody else in the IG's office handle
13 press inquiries, to your knowledge?

14 A If they did, I'm unaware of it.

15 Q Do you remember any subsequent
16 conversations with Mr. Irons prior to the indictment
17 of Mr. Hale?

18 A Do I remember any conversations with Irons
19 prior to --

20 Q Any other conversations prior to the
21 indictment of Hale.

22 A I don't recall the specifics of any. I

1 know that there were some.

2 Q Okay. You had made contact with Mr. Irons?

3 A Yes.

4 Q And the purpose of these calls, generally?

5 A The same as all of them, was periodic

6 update on the case.

7 Q Again, for the purpose of filing the case
8 summaries and then transmitting those to Washington
9 for the preparation of the report?

10 A That's correct.

11 Q Was there any other purpose for you to call
12 Mr. Irons?

13 A No, that was basically it. You know, once
14 we made the referral, it was -- you know, we were
15 pretty much out of the picture and the only thing we
16 were trying to do was stay current on it.

17 Q And staying current just simply because you
18 had made the referral?

19 A That's correct.

20 Q Because a case file had been opened with
21 respect to the referral?

22 A That's correct.

1 Q And so the information that you would
2 gather in order to stay current would go into the
3 case file with respect to the investigation that you
4 had referred to the FBI?

5 A That's correct.

6 Q I have here a message slip from you to
7 Mr. Irons dated 9/13 and the time is 8:05 a.m. and
8 you stated that you left the SBA in May of 1994?

9 A Right.

10 Q And had no other contact with this case
11 in -- after you left?

12 A That's correct.

13 Q So by 9/13, it's safe to assume that that
14 was 9/13/1993?

15 A Yes.

16 Q It is a message from Arnold Hawkins,
17 404-347-2326. Is that your phone number?

18 A Say it again.

19 Q 404-347-2326.

20 A Yes, that was the phone number.

21 Q That was your office number?

22 A Right.

1 Q And the message let me read to you. It
2 says "Capital Management case. Steve, this guy is
3 the regional Inspector General's office. He just
4 wanted to know when the indictment was going, and if
5 we were indicting two attorneys." And there's a
6 notation that says "over," but unfortunately, we do
7 not have the back side of the message slip.

8 Do you recall leaving this message or any
9 other -- any other for Mr. Irons?

10 A I don't recall it, no. I do know that I
11 contacted -- I made several contacts out there or
12 several unsuccessful contacts out there.

13 Q And what was the purpose of your attempt to
14 contact Mr. Irons?

15 A We were attempting to stay current on the
16 case. That's basically it.

17 Q And you had been advised earlier that there
18 was an indictment pending?

19 A I say I guess I would have been, yes. I
20 don't know where the part about the two attorneys
21 came from.

22 Q Right. Is there any particular reason why

1 you would have been interested in specifically when
2 the indictment was going to be handed down?

3 A Well, there was from my standpoint, but I
4 mean, I did not want to be surprised or did not want
5 to be or central office people to be surprised when
6 something under my general supervision occurred. You
7 know, I tried to stay current with anything such as
8 this.

9 Q And an indictment is a significant enough
10 event that you would have wanted to be apprised of in
11 advance?

12 A Oh, yes. I mean, if for no other reason I
13 wanted them to know about it from me rather than read
14 about it in the paper, which was not an infrequent
15 occurrence, I might add.

16 Q But there was -- you don't have any
17 specific knowledge of any particular reasons why you
18 were placing these phone calls in September of 1993?

19 A No, other than to, you know, to maintain
20 current knowledge of the case.

21 Q Did you receive any inquiries at the time
22 with respect to the progress of the case from the

1 IG's office in Washington?

2 A No, I don't think they -- I think all the
3 contacts were made by me.

4 Q Okay. Again, in an effort to keep them
5 current of the case?

6 A Right.

7 Q Now, let me try to delve into your memory a
8 little bit deeper with respect to the subject that
9 you had testified earlier that you did not know where
10 it came from. That is the quotation. He wanted to
11 know when the indictment was going and if we were
12 indicting two attorneys.

13 Do you know where you -- what was the basis
14 of your question in that regard?

15 A No, I don't, I'm sorry.

16 Q Did you have any conversation with anybody
17 else at the IG's office with respect to this case in
18 that time period?

19 A Well, it sounds kind of like maybe they had
20 heard something and I was trying to verify.

21 Q "They" being other people in the IG's
22 office?

1 A In our central office.

2 Q In your central office in Washington,
3 D.C.?

4 A Right.

5 Q You do not know solely -- so it was in the
6 same vein as your August phone call to --

7 A There might be another thing too. There
8 were a good number of press releases or newspaper
9 articles that we got copies of and it could be that
10 there was a reference in some of those to the
11 attorneys or the question about indictments of one or
12 more attorneys.

13 Q Do you know -- at the time did you know
14 what the allegations were against these attorneys?

15 A I don't believe I did. Basically what I
16 knew was what was in the referral and what was told
17 to me by Irons.

18 Q But have you come to any subsequent
19 knowledge as to what the allegations were against
20 these attorneys?

21 A I'm unaware of it, so I say no. It's
22 conceivable that I knew something that I have

1 forgotten, but at this point in time I do not know.

2 Q Do you know the identity of the two
3 attorneys?

4 A No, I do not.

5 Q And you testified earlier that neither
6 Richard Mays nor Randy Coleman ring a bell in your
7 mind?

8 A No, neither name sounds familiar.

9 Q Were there other people in your office, in
10 the Atlanta office of the regional IG's office, that
11 you had worked with on this case?

12 A That I worked with on it?

13 Q Yes. Was there a subordinate that you
14 assigned to the case?

15 A Well, Jim Albers was the special agent in
16 charge of the Atlanta office and I think he may have
17 also made a contact or two at least a phone call, or
18 it seems like at one time I had left their number
19 with him and as I was leaving for an out-of-town trip
20 or something, asking him to get in touch with -- I'm
21 not sure he ever did.

22 Q You and Mr. -- but was there anybody else

1 in the office who worked on the case?

2 A Not that I'm aware of, no.

3 Q And that was because, again, the matter was
4 referred directly to the FBI without you conducting
5 an investigation yourself?

6 A Right. We did no active investigation.

7 Q So the activity going on in your office was
8 mostly update and keeping current by you and
9 Mr. Albers?

10 A We were just monitoring, yes.

11 Q Did you have any contacts with the -- with
12 anybody within the SBA regarding this case other than
13 the initial referral itself?

14 A It seems like I may have contacted the SBIC
15 attorney.

16 Q Would that be Mark Stephens?

17 A Mark Stephens. Couldn't think of his
18 name. It seems like maybe I had a conversation with
19 him at one point.

20 Q Do you remember the general or the
21 specifics of this conversation?

22 A I do not. It seems like maybe it was

1 immediately following his trip out there.

2 Q Which would have been in August of 1993?

3 A Yes, I guess.

4 Q And do you remember what you talked about?

5 A No, I do not.

6 Q Did it have to do with the liquidation or
7 the receivership of the company?

8 A That's what he was involved in, obviously.

9 My interest would have been in with regard to
10 criminal proceedings, though.

11 Q Did you initiate the phone call or did he
12 contact you?

13 A I can't tell you that offhand.

14 Q Did you get any information from him
15 regarding the criminal investigation?

16 A If I did, I don't remember what it was, but
17 it seems like I had contacted him to -- I think maybe
18 I had gotten -- had left some messages for Irons and
19 had not talked to him and I'm not sure exactly what I
20 was trying to find out or what the purpose of it was,
21 but I don't know if he contacted me or I contacted
22 him, but I vaguely recall a conversation with him.

1 Q Is there anybody else in the SBA general
2 counsel's office that worked with Mr. Stephens that
3 you had contact with?

4 A I don't believe so. The only one I recall.

5 Q Is Stephens?

6 A Is Stephens.

7 Q Marty Teckler?

8 A I know his name, and you know, he's been
9 around for a good while. I don't think I had any
10 contacts with him with regard to this case.

11 Q What about Mr. Spotila, the general
12 counsel?

13 A The name doesn't even sound familiar to me
14 at this point.

15 Q Did you have any contact with anybody else
16 at the SBA outside of the General Counsel's Office?

17 A No.

18 Q None with Mr. Foren or Mr. Bowles?

19 A I'm relatively sure that I did not.

20 Q Okay. Did you have any contact with the
21 White House during the pendency of this
22 investigation?

1 A Oh, no.

2 MR. DINH: I have nothing further.

3 MR. IVEY: I don't have any questions for

4 you. Thank you for your time here, Mr. Hawkins.

5 MR. DINH: Thank you very much,

6 Mr. Hawkins.

7 (Discussion off the record.)

8 MR. DINH: If you recall anything else

9 regarding this, I hope you will give me or Mr. Ivey a

10 call. You have my phone number?

11 THE WITNESS: I do indeed.

12 MR. DINH: Thank you very much.

13 THE WITNESS: I'll call you if there is

14 anything that comes up.

15 MR. DINH: Thank you very much,

16 Mr. Hawkins. Enjoy your retirement.

17 THE WITNESS: Thank you very much.

18 (Whereupon, at 4:02 p.m., the deposition

19 was concluded.)

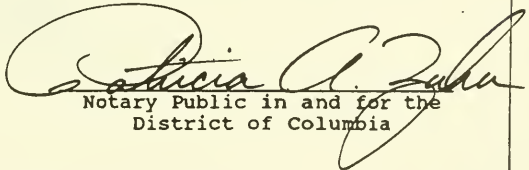
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ARNOLD HAWKINS

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action..


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF LEX A. DOBBINS
IN RE: S. RES. 120**

MONDAY, DECEMBER 4, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of LEX A. DOBBINS, called for examination pursuant to notice of deposition, at 12:50 p.m. in Room 428 of the Russell Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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EXHIBITS

Lex A. Dobbins DEPOSITION NUMBER	IDENTIFIED
Dobbins Exhibits 1 and 2	42, 106
Dobbins Exhibit 3	56, 111

PROCEEDINGS

Whereupon,

LEX A. DOBBINS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record?

A Lex Alan Dobbins.

Q Your present business address?

A Saline County Health Department, 301 East McNeil.

Q McNeil Street?

A Uh-huh, Benton, Arkansas 72015.

Q What is your business phone number there?

A 847-2811, area code 501.

Q What is your position at the Saline County Health Department?

A I'm a sanitarian, employee of the State

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Health Department.

Q What are your duties as a sanitarian?

A Oh, they're basically inspectional duties in the area of food service and on-site sewage disposal and certain areas of environmental compliance.

Q How long have you been employed as a sanitarian with the Saline County Health Department?

A Well, I've been with the Arkansas Department of Health for 24 years, and I've been at the Saline County Health Department about 12 years.

Q Do you know the month and year that you started at the Saline County Health Department?

A It was either -- no, it was either '82 or '83. It was just a transfer from the state Health Department.

Q Now, just to clarify something, you are an employee of the state Health Department working at the Saline County Health Department?

A All sanitarians are state employees of the Health Department assigned to local health units or the central office, depending.

1 Q So were you assigned to the central
2 office --

3 A Before --

4 Q -- of the Health Department before you went
5 to Saline County?

6 A Yes.

7 Q And central office where?

8 A State health department, 4815 West Markham
9 in Little Rock.

10 Q What did you do prior to being assigned to
11 the Saline County Health Department?

12 A I was a supervisor for the sewage disposal
13 program for the state of Arkansas for on-site sewage
14 disposal.

15 Q How long did you hold that position?

16 A About five years.

17 Q Now, would you -- in that position, would
18 you have supervised Health Department employees in
19 Saline County?

20 A Yes, in any county in the state of Arkansas
21 at that time, provided programmatic supervision for
22 them.

1 Q What did you do prior to that?

2 A I was the county sanitarian in Pulaski
3 County for a while, Arkansas County for a while,
4 Monroe County for a while. And before that I worked
5 for the division of engineering at the state Health
6 Department when I first started my career.

7 Q Now, the various positions that you have
8 outlined, are those political appointments or are
9 those career type, civil service type employment?

10 A Well, they're state jobs. They were just
11 career moves on my part.

12 Q But are they political appointments or are
13 they state -- is there a civil service system?

14 A Well, they had a merit system, Counsel,
15 that you had to qualify, meet the requirements before
16 you could take a test, be certified to hold that
17 position for the state before you could be hired.

18 Q As a sanitarian?

19 A Yes.

20 Q Also a test in your supervisory capacity?

21 A There was no test when I went from
22 sanitarian to sanitarian supervisor.

1 Q Is there one sanitarian for each county?

2 A Sometimes there are -- there's only one,
3 sometimes there are part-time positions, sometimes
4 there are several positions in a county, depending on
5 the workload.

6 Q And why is it that you moved from the
7 supervisory position at the Department of Health to
8 the sanitarian position in Saline County?

9 A Just got tired of working in the central
10 office, looking for a change. Saline County is my
11 home county.

12 Q When you were a supervisor in the main
13 office, who was your immediate supervisor?

14 A Neil Glover.

15 Q And what was his title?

16 A Program administrator.

17 Q And who, in turn, did he report to?

18 A Jack Lusby and Bill Teer. Bill Teer is a
19 director of that particular division and Jack Lusby
20 held that position before Mr. Teer took it over.

21 Q Who did Teer report to?

22 A Jerry Hill.

1 Q So that I fully understand the chain of
2 command, who did Hill report to?

3 A Tom Butler.

4 Q Then was it Butler that reported to the
5 governor?

6 A No, there was a director of the agency.
7 Back at that time it was Ben Saltzman. Mr. Butler
8 was the deputy director, is.

9 MR. COLE: What was Mr. Butler's first
10 name?

11 THE WITNESS: Tom.

12 BY MR. GICALE:

13 Q Jerry Hill's title was what?

14 A He was a bureau chief, or a bureau
15 director.

16 Q And Teer was a director?

17 A Division director.

18 Q Mr. Dobbins, you brought with you today
19 copies of records from the Health Department related
20 to the issue that we requested you to testify --

21 A Yes.

22 Q -- on. And I would ask that after this

1 deposition, you make available to us these records or
2 copies of them so that the Committee can have copies
3 of them. I understand that Mr. Teer has a copy of
4 all of these and when he returns, perhaps we can make
5 an arrangement to have him supply them to the
6 Committee.

7 A I would prefer that we use his because they
8 are duplicates of my file. They were duplicated in
9 my office.

10 Q Mr. --

11 MR. COLE: I would also just note for the
12 record, Mr. Gicale, that it appears from a quick
13 review of these documents, that they all are within
14 the jurisdiction of our resolution and are
15 responsive, but I would want to have them compared to
16 the subpoena that we sent out to make sure that they
17 are all responsive documents before they are produced
18 and become a part of the Committee's record. It
19 appears that they are, but I just wanted to raise
20 that issue for the record.

21 MR. GICALE: I believe that's a fair
22 request. I just -- perhaps we can set them aside

10

1 when Mr. Kolinski receives them and make sure they're
2 consistent with our request.

3 BY MR. GICALE:

4 Q Mr. Dobbins, this deposition is being
5 conducted pursuant to Senate Resolution 120. The
6 resolution establishes a Special Committee
7 administered by the Banking Committee to conduct an
8 investigation involving Whitewater Development
9 Corporation, Madison Guaranty Savings & Loan
10 Association, Capital Management Services, Inc., the
11 Arkansas Development Finance Authority and other
12 related matters.

13 Section 1(b)(3) (A) and (B) of Senate
14 Resolution 120 authorizes investigation and public
15 hearings into A, the operations, solvency and
16 regulation of Madison Guaranty Savings & Loan
17 Association, and any subsidiary affiliate or other
18 entity owned or controlled by Madison Guaranty
19 Savings & Loan Association; B, the activities,
20 investments and tax liability of Whitewater
21 Development Corporation, and as related to Whitewater
22 Development Corporation of its officers, directors

1 and shareholders. This will be the focus of today's
2 deposition.

3 You were requested to testify last week.
4 This deposition is in advance of public hearing. The
5 hearings are currently ongoing in this month of
6 December and may again occur in early 1996. It is
7 possible you may testify at any upcoming hearing.

8 We will be asking you a series of
9 questions. You, of course, are testifying under
10 oath. If you don't understand a question let us know
11 and we will rephrase the question.

12 The stenographer will be preparing a record
13 of questions and answers. The deposition will be
14 treated as Committee confidential until the
15 commencement of the hearings.

16 Prior to the hearings, you will receive a
17 letter from the Committee telling you that you may
18 come to the Senate to review the transcript of your
19 deposition and make note of any corrections for
20 transcription on an errata sheet.

21 If you are called to testify at a public
22 hearing, you will be permitted to have a copy of your

12

1 deposition transcript four days in advance of your
2 testimony.

3 Now, I note for the record that you
4 obviously live in Arkansas and with other witnesses
5 from out of town, we have made some arrangements to
6 have those witnesses review those transcripts, and we
7 can make arrangements to do so. We can talk about
8 making arrangements to do so after the deposition.

9 A That's fine.

10 Q You may be represented by counsel. I note
11 that you are not represented by counsel here today.
12 Objections to the form of questions will be noted for
13 the record. Counsel may object on grounds of
14 privilege or relevance and the Committee chairman may
15 rule on objections where the witness refuses to
16 answer a question.

17 Now, at this point, do you have any
18 questions of us?

19 A No.

20 Q The three groups of documents that you've
21 brought, folders of documents you've brought to us
22 today, I take it that these are the result of a

1 search you made for documents that you thought would
2 be related to your deposition testimony today?

3 A That's correct.

4 Q Okay. And these are all the documents that
5 you are aware of that would relate to this subject
6 matter?

7 A There may be other documents in
8 Mr. Butler's office that I do not have, and
9 Mr. Hill's office also.

10 Q Did you speak to anyone about the substance
11 of your testimony today prior to coming to the
12 deposition?

13 A Yes.

14 Q Who?

15 A I had an informal meeting with Tom Butler,
16 Jerry Hill and Bill Teer.

17 Q When was that?

18 A Oh, let's see. I want to say it was last
19 Wednesday. I'm not really sure when it was. It
20 wasn't long ago.

21 Q Who called the meeting?

22 A I assume Mr. Butler.

1 Q Where was the meeting?

2 A Mr. Butler's office.

3 Q In Little Rock?

4 A Yes.

5 Q What did you discuss at the meeting?

6 A It was an informal discussion about if we
7 had our documentation and whether or not we were
8 going to bring our documentation. We all agreed at
9 that time that we would.

10 Q How long was the meeting?

11 A Oh, I'd say about 30 minutes.

12 Q Was there any discussion about the
13 substance of what you would be testifying to here
14 today?

15 A The gist of the meeting was just try to
16 remember the facts and tell the truth.

17 Q Was anyone else at the meeting other than
18 Butler, Hill, Teer and yourself?

19 A No.

20 Q Was there anybody there from counsel's
21 office?

22 A No.

1 Q Have you spoken to anyone else about the
2 substance of your testimony here today?

3 A I talked with counsel of the Health
4 Department.

5 Q Who was that?

6 A George Harper.

7 Q When did you speak with him?

8 A Oh, very short conversation over the
9 weekend, he basically stated just tell the truth.

10 Q Did you speak to anyone else?

11 A Not that I recall.

12 Q Have you been deposed on any prior
13 occasions with respect to this issue?

14 A Not to this issue.

15 Q Well, have you been deposed with respect to
16 Mr. McDougal?

17 A No.

18 Q Well, have you been deposed with respect to
19 some related matter?

20 A Not a related matter.

21 Q Mr. Dobbins, when did you first become
22 involved with Maple Creek Farms and some sewer

1 problems that occurred there?

2 A Well, basically in the spring of 1983, I
3 just happened upon the project. The development was
4 underway, roads were cut, a sales office had been
5 established, the materials for laying a public water
6 supply system were on site, and at that point in time
7 I stopped and visited with the parties involved, I
8 believe it was Mr. McDougal and an R.D. Randolph.

9 I asked them what type of development they
10 were anticipating and it was basically your
11 three-acre tract and larger development. This type
12 of development excludes the developer from any
13 preliminary work on determining soil suitability for
14 on-site sewage disposal. We encouraged them at that
15 time to consider community sewer systems or
16 community --

17 Q Can you back up for a second?

18 A Yes.

19 Q You were just driving in the area?

20 A Right.

21 Q And you saw the project starting?

22 A Right.

1 Q You saw somebody building something or
2 somebody clearing land?

3 A They were building roads and there was a
4 sales office already established.

5 Q And your duties when you came upon that
6 project, what were your duties at that point?

7 A Well, I basically wanted to stop and visit
8 with the developer to find out what type of
9 development he was doing because there was no
10 community sewer system in the area, and I knew I
11 would have some responsibility if it was going to be
12 a residential development.

13 Again, they informed me that it would be
14 large tract development, in other words three acres
15 and larger, which falls into a category totally
16 different than what we would call a residential
17 subdivision by the definition of the law.

18 Q And how --

19 MR. COLE: Is that by statute or by Health
20 Department regulation, if you would permit me to
21 interrupt you, Mr. Gicale?

22 THE WITNESS: By statute. By the state

1 legislature.

2 THE WITNESS: Yes. I have a copy of the
3 updated law with me.

4 BY MR. GICALE:

5 Q So there's a difference in the manner in
6 which a large tract development is treated versus a
7 residential subdivision?

8 A Well, let me explain it this way. A
9 subdivision by our definition, capsule definition, is
10 any individual who is going to develop a tract of
11 land into three or more tracts, any one of which is
12 less than three acres. That's a residential
13 subdivision. And they have to do certain preliminary
14 studies in order to get the subdivision approved
15 before they can develop the subdivision, whereas a
16 developer who develops three-acre tracts and larger
17 has to do no preliminary soil studies. In Arkansas
18 you can sell swamp land three acres at a time, let
19 the buyer beware.

20 Q When you stopped by this property,
21 Mr. McDougal and Mr. Randolph told you that this was
22 going to be at least three acres or more, this was a

1 large tract subdivision?

2 A That's correct.

3 Q That did not require some kind of --

4 A Preliminary review.

5 Q -- preliminary review. Now, as a result of
6 that conversation, what did you do or what were your
7 responsibilities with respect to those tracts of
8 land?

9 A Well, I was concerned that the area may
10 have some unsuitable soil in it, so in order to
11 prevent the developer from developing smaller
12 tracts --

13 Q Back up for a second. Unsuitable soil for
14 sewage disposal?

15 A On-site sewage disposal.

16 Q And why did you believe it was unsuitable
17 soil for sewage disposal?

18 A I had done some preliminary work out
19 there. As soon as I found the development, I took my
20 post hole diggers and dug some holes throughout the
21 development and could tell that we were in some
22 extremely marginal soils.

20

1 Q So you had sampled the soil before or after
2 you talked to them?

3 A At the same time -- well, it was probably
4 the same day. As soon as I discussed with them their
5 situation and they told me how much land they had
6 involved, I drove through the development, looked at
7 the situation, made some remedial determinations and
8 was concerned that they may want to develop smaller
9 tracts of land.

10 I believe they had hired an engineering
11 firm to look into developing smaller tracts.

12 Q How did you learn that?

13 A Somebody at the sales office, I think,
14 mentioned that to me, it may have been Mr. McDougal,
15 that he had hired -- and I may not be right about the
16 firm, but it seemed like it was Brooks & Curry,
17 engineering firm, was looking into making a higher
18 density development, and I -- my recollection is that
19 I contacted them and informed them that the soils
20 were too marginal to consider smaller tract
21 development.

22 Q Now, again to go back a step, you said that

1 the initial response was that this was going to be a
2 large tract development --

3 A Correct.

4 Q -- versus a smaller residential
5 development, less than three acres?

6 A Correct, correct.

7 Q But at the same time they said to you we
8 might pursue a smaller residential, less than
9 three-acre development?

10 A That's my best recollection, yes.

11 Q And the consequences of them pursuing the
12 smaller development, residential development, less
13 than three acres, would have been some authorization
14 from your department, I take it?

15 A The developer would be allowed to prepare a
16 package indicating a smaller lot development for us
17 to review, but he would be allowed to go in there and
18 hire an engineering firm and do his own -- his own
19 studies and present them to me.

20 Q But before the developer could go ahead and
21 develop that tract of land, the developer needed your
22 department's approval?

22

1 A Correct.

2 Q Correct?

3 A Correct.

4 MR. COLE: Just so the record is clear, is
5 the distinction before the developer can take action
6 to develop or is it before he can take action to
7 market it to the public that he must obtain approval
8 from your department?

9 THE WITNESS: He must obtain approval
10 before he develops the actual lots.

11 MR. COLE: By "develop the lots," what do
12 you mean?

13 THE WITNESS: The way our regulations are
14 worded, it's construction, no construction shall be
15 done upon any lot until the subdivision has received
16 approval from the state Health Department. We don't
17 address sales, unfortunately.

18 BY MR. GICALE:

19 Q So no construction on any lot until you
20 have approved it?

21 A That's correct.

22 Q But somebody can sell the lot without you

1 having approved it?

2 A Potentially. Well, our regulations -- the
3 word "sales," or the sale of residential property, is
4 not mentioned in any of our laws or regulations, so
5 we very strenuously avoid trying to enforce anything
6 regarding the sale of residential lots.

7 We would assume that we could seek
8 injunctive relief against development if a developer
9 tried to actually develop lots that we hadn't
10 approved.

11 MR. COLE: But presumably no one can obtain
12 a building permit, whether the developer or a
13 purchaser, without the proper approval from your
14 office; is that correct?

15 THE WITNESS: They would not be able to
16 obtain a sewage disposal permit. Unfortunately in a
17 lot of the counties, there are no countywide building
18 permit requirements.

19 BY MR. GICALE:

20 Q So on the first day that you were at the
21 development and you had this conversation with
22 McDougal and Randolph, one, they indicated to you

1 that this was going to be large tract development
2 greater than three acres?

3 A Correct.

4 Q Two, there was a possibility of some
5 smaller tract development that their engineers were
6 looking into, and as a result, you decided to test
7 the soil?

8 A Make some preliminary observations.

9 Q Preliminary observations, and you
10 determined that if they were going to market it -- or
11 develop it small tract, less than three acres, that
12 the soil was of insufficient quality to do what, to
13 have individual septic systems?

14 A Basically that's correct.

15 Q So that the result would be that they would
16 have to have some other type of system if they wanted
17 less than three-acre development; correct?

18 A In my opinion, they would have had to have
19 had a community sewage system, that is centralized
20 collection.

21 Q Would that hook up to some other community
22 system?

1 A Basically in that location, they would have
2 had to have put their own community system in.

3 Q Now, when did you notify McDougal and
4 Randolph that that was the case?

5 A I believe I only talked to their
6 engineering firm about that, and I didn't hear
7 anything from either side after I had my conversation
8 with the engineering firm as far as making smaller
9 tracts.

10 Q Was that shortly after you talked to them?

11 A Yes.

12 Q In the spring of '93; correct?

13 A Spring and summer of '83.

14 Q I'm sorry, '83. Now, after you told their
15 engineers that that was the case, what was the next
16 thing that happened with respect to that development?

17 A Well, basically I contacted the state
18 Health Department to see if the engineering
19 department was going to approve their water system.
20 They indicated yes, they had the plans and they were
21 going to approve them, at which time I --

22 Q Well, all right. To go back again, when

1 you say approve their water system, did they agree
2 with your determination that there needed to be a
3 community water system and therefore they were going
4 to go to the state for approval of a water system?

5 A That was already in the works when I came
6 upon the project.

7 Q That they were going to have a community
8 water system?

9 A Correct.

10 Q So they agreed with your assessment?

11 MR. COLE: We need to distinguish, I think,
12 between a community water system and a community
13 sewer system, do we not?

14 THE WITNESS: And individual sewage
15 system. I have no control over the review and
16 approval of a community water system. That's
17 strictly done by division of engineering. And
18 because of the large tract development, they would
19 approve the water system without any input from the
20 local sanitarian regarding soil suitability.

21 BY MR. GICALE:

22 Q Okay. So you had no jurisdiction over that

1 part of it?

2 A None.

3 Q But you wanted to find out whether or not
4 they were going to get approval for the community
5 water system?

6 A That's correct, to better understand the
7 position that I was in at that point in time.

8 Q Well, why was that a concern to you? How
9 did that relate to your community sewer system?

10 A Well, I was concerned that a lot of the
11 areas had extremely marginal soil. I knew by our
12 laws and regulations that he would be able to sell
13 all of the lots and from a practical standpoint, they
14 could build a house on every lot out there and then
15 come to me and ask me for some type of permit for a
16 sewage disposal system. I felt I was in a pretty
17 tough situation from the beginning.

18 Q So they could sell the lots, but then when
19 people came to you for a permit, you couldn't give
20 them the permit because the soil wasn't suitable for
21 a septic system?

22 A Well, we have --

1 Q Correct?

2 A Historically we have a very flexible
3 approach if you have large tract development, we'll
4 give you some type of permit if you've got three
5 acres, we will give you some type of sewage disposal
6 permit. Most of these permits were obtained by
7 Madison Financial. Majority of the buyers, in my
8 opinion, did not see copies of the sewage disposal
9 permits that we had issued which had stipulations
10 written on them.

11 Q All right. But what was the significance
12 of you calling to find out whether or not a community
13 water system had been approved by the Health
14 Department? Why did you want to find that out?

15 A Well, it would help me understand my
16 position better as far as how I was going to deal
17 with the development. If they're going to get their
18 water approved, I've got a development on my hands
19 and I've got to deal with it.

20 If they did not approve the water, I would
21 assume they would not have developed the property.

22 Q So you learned that the state Health

1 Department was going to authorize some type of
2 community water system?

3 A That's correct.

4 Q Who did you check with to verify that?

5 A I don't remember who I talked to in the
6 division of engineering. It may have been Tom
7 Skinner.

8 Q Then after you found out that, what did you
9 do next with respect to that property?

10 A I basically discussed the situation with my
11 superiors, Mr. Glover and Mr. Teer, and we entered
12 into a memorandum of agreement with Madison Financial
13 that the tracts would be a minimum of three acres.
14 That was done strictly to prevent smaller tract
15 development.

16 Q And under those circumstances, then, you
17 would approve individual septic systems?

18 A Well, we issued permits on the lots, but a
19 lot of our permits had stipulations on them that the
20 soil was marginal, severely limited and the systems
21 may not function properly. It was my position that
22 when the buyer saw a copy of this permit, that the

30

1 development -- that the developer would reconsider
2 his options and possibly put in a community sewage
3 system. I would like to say that I don't think the
4 buyers were provided copies of those permits.

5 Q I'm going to show you what's marked for
6 identification as Bates number documents DKSJ 013437
7 through 39. This is a letter and an attached
8 memorandum of agreement dated June 23, 1983 to
9 Mr. Jim McDougal regarding Maple Creek Estates,
10 Saline County, from Lex Dobbins.

11 Is this the letter and memorandum of
12 agreement that you're referring to?

13 A Yes.

14 Q Does that agreement refer to large tract
15 development?

16 A Correct, on the memorandum of agreement.

17 Q Which paragraph?

18 A Second paragraph, "it is the understanding
19 of the Saline County Health Department that all lots
20 contained in Maple Creek Estates are to be a minimum
21 of three acres."

22 Q And furthermore, this document indicated

1 that each lot will be evaluated on individual merit
2 with respect to soil suitability?

3 A That's correct.

4 Q So this is the agreement, a copy of the
5 agreement, then, you reached with Mr. McDougal on
6 behalf of Madison Financial and Maple Creek at that
7 point in time?

8 A That's correct.

9 Q What happened subsequent to entering into
10 that agreement?

11 A What do you mean?

12 Q Well, who drew up the agreement?

13 A I did.

14 Q And your signature is on that agreement;
15 correct?

16 A That's correct.

17 Q Well, subsequent to signing the agreement,
18 what happened with respect to the development?

19 A Well, they sold a substantial number of
20 lots with a very effective advertising campaign. We
21 did note on several of the permits that the soil was
22 severely limited, that the systems may not function.

1 Q Now, permits that were issued when buyers
2 purchased the property and then came to you asking
3 for permits?

4 A Buyers never came to me. These --

5 Q How was it that you issued permits?

6 A Issued them to the developer, Madison
7 Financial, the majority of them were issued to the
8 developer.

9 Q How would that work? Would Madison
10 Financial come to you and say we're going to sell lot
11 number 1, please give us a permit on it?

12 A Well, they would hire individuals to submit
13 applications to us for permits, certified individuals
14 like perc testers, let's call them, but they
15 apparently sold the lots and oftentimes would put a
16 mobile home on the lot before they would obtain a
17 permit from us. That's my understanding that the
18 buyers did not see these permits.

19 In my opinion, had the buyers been aware of
20 some of the conditions on the permits, they may not
21 have purchased the property.

22 Q But in any event, someone was coming to you

1 as a representative of Madison Financial as
2 representative of the seller as opposed to the buyer,
3 asking for permits for these pieces of property?

4 A Madison Financial would hire individuals to
5 prepare applications for the permits, which would be
6 soils analysis and design of system. They would
7 submit that to me, the individual would who did the
8 work.

9 Q But on behalf of Madison Financial?

10 A That's correct.

11 Q Not the purchaser?

12 A That's correct. In the vast majority of
13 cases.

14 MR. COLE: Is that the usual practice in
15 Arkansas for that kind of development?

16 THE WITNESS: That's not unusual. If a
17 developer wants to maintain control of the
18 development, they will oftentimes get it in their
19 name and then give it to the buyer, but they're not
20 required by our law to give it to the buyer since we
21 don't address sales.

22 BY MR. GICALE:

1 Q So you would issue a permit to Madison
2 Financial?

3 A In the majority of cases, yes.

4 Q With the understanding that that would
5 attach to the parcel of property that they requested
6 the permit on?

7 A That was my hope.

8 Q How many of these did you issue on the
9 property approximately?

10 A I would say, and I'm just guessing, I would
11 say in excess of 70 permits.

12 Q And all of them were conditional?

13 A The majority of them were conditional.

14 Q In each instance when someone made an
15 application, would you go out and test that
16 particular piece of property to determine whether or
17 not it could be a conditional or unrestricted permit?

18 A Well, the individual they were using out
19 there to do their percolation test, I had confidence
20 in his ability to evaluate the soils and I didn't
21 conduct -- I conducted pre-site inspections on a lot
22 of them, but on a lot of them I didn't.

1 Q So you relied on the individual that they
2 hired to give you -- relied on him to give you his
3 results?

4 A That's correct.

5 Q And based on those results, you made a
6 determination as to whether or not it should be a
7 conditional or unrestricted permit?

8 A That's correct.

9 Q And the majority of them were conditional
10 permits?

11 A That's correct.

12 Q And they were all allegedly for three-acre
13 or more plots?

14 A That's correct.

15 Q Well, how long a period of time did you
16 issue these permits, over what period of time?

17 A Well, I had the project, I was responsible
18 for the project up to 1986. In 1984, I expressed my
19 concerns in writing to Mr. McDougal that some systems
20 may malfunction. In 1984 Mr. McDougal went into the
21 development and created a subdivision that was to be
22 served by a community sewer system. In other words,

1 a subdivision within the development. At that point
2 in time I contacted Mr. McDougal in writing.

3 Q Now, did he attempt to obtain your
4 department's approval for such a system?

5 A Yes, he had got approval. That's how I
6 found it, I think I got some correspondence or found
7 out from the division of engineering that they were
8 going to approve a community sewage system for a
9 portion of the original development.

10 Of course, these lots in this new
11 development were small lots, substantially smaller
12 than three-acre lots, and they were going to be
13 served by a community sewage system, a centralized
14 collection system.

15 It was at that point that I contacted
16 Mr. McDougal in writing and informed him or suggested
17 that we provide community sewage to the rest of the
18 development.

19 Q Why is that?

20 A Because of the marginal nature of the soils
21 and the potential for malfunction of the individual
22 sewage disposal systems.

1 Q So you figured as long as he was going to
2 provide for a portion of the subdivision and there
3 were problems with the rest of the division, the rest
4 of the development, you thought that it would be
5 advisable to have a community system for the entire
6 development?

7 A Well, right. I anticipated that there were
8 going to be problems, and I suggested that he
9 consider centralized collection. He responded --

10 Q Would that have been in February of 1984
11 that you notified him of this?

12 A Yes. November of '83 and February of '84,
13 I think.

14 Q I'm going to show you what's marked for
15 identification as DKS N 013440 through 441. It's a
16 letter dated February 21, 1984 to Mr. McDougal
17 regarding Maple Creek Estates from Lex Dobbins,
18 Saline County health unit stationery. Is this the
19 letter that you're referring to, or at least one of
20 the letters you're referring to?

21 (Witness reviewed the document.)

22 A Uh-huh, yes.

1 Q And the second to last paragraph, you
2 indicate you would like to reiterate your concern
3 that proper drainage and insulation of the individual
4 sewage disposal system may not be entirely effective
5 and ask that he consider an overall plan of
6 development that would provide public sewage for any
7 area in Maple Creek in which the malfunction of
8 individual sewage disposal systems may occur and thus
9 constitute a public health hazard.

10 A That's correct. I also have a November 10
11 letter, 1983.

12 Q Where you made the same request?

13 A Yes, that's the first time that I
14 understood that he was going to provide community
15 sewage to certain areas of Maple Creek.

16 Q What was Mr. McDougal's response to that?

17 A Mr. McDougal's response was March 6 of
18 1984.

19 Q Did he agree with your suggestion?

20 A His last paragraph in that letter is, "as
21 you know, we are planning a sewer improvement
22 district to service the remaining property we will

1 offer for sale. This system will have excess
2 capacity as to Maple community service for any area
3 in which individual sewer disposal systems might
4 fail."

5 Q So he notified you that the newly proposed
6 system would have excess capacity and that he would
7 make it available in the event that there was some
8 failure on the other part of the development;
9 correct?

10 A That's correct.

11 Q But he didn't go so far as to commit to
12 hook the other parts of the development up to the
13 system?

14 A Well, in a later memorandum of agreement,
15 they agreed to provide sewer to Maple Creek Farms,
16 all lots except the 300 series.

17 Q 300 through 340; is that correct?

18 A That's correct.

19 Q And I'm going to show you what's marked for
20 identification as DKS N 013288. This is a memorandum
21 signed by Maple Creek Farms and James McDougal along
22 with William Teer dated 4-26-84. Is this the

40

1 memorandum that you're referring to?

2 A Yes.

3 Q And it's in this memorandum where they
4 agreed to provide sewer system to serve all of Maple
5 Creek Farms except lot 300 to 340?

6 A That's correct, and we were to do an
7 evaluation of the 300 series lots to see if they
8 should be included also.

9 Q Now, why were the 300 series lots excepted
10 at that point in time?

11 A It was at Mr. McDougal's request.

12 Q But did he indicate why he was excepting
13 those lots at that point?

14 A No, I don't remember.

15 MR. COLE: Were those larger lots or the
16 same size?

17 THE WITNESS: All the lots were three and
18 five acres and there may have been several five acre
19 tracts in there. I don't remember.

20 BY MR. GICALE:

21 Q So as of April 26, '84, Mr. McDougal has
22 now agreed with the exception of those 40 lots to

1 provide a community sewer service --

2 A That's correct.

3 Q -- to Maple Creek Farms?

4 A That's correct.

5 Q Did that occur?

6 A No, it did not.

7 Q What happened subsequent to that agreement?

8 A Well, there was a lot of correspondence

9 between the division of engineering and Robert

10 Holloway, Mr. McDougal's engineer, regarding the

11 technical specifications. They were just in the

12 review process of trying to get all of the technical

13 specifications addressed. And during that time, once

14 we entered into that '84 agreement, we issued

15 temporary permits, sewage disposal permits, with the

16 understanding that these homes would be connected to

17 community sewage when it became available.

18 Q Were there time limits on the permits or

19 were they structured so that they expired when the

20 system became available?

21 A There were no time limits. They were

22 just -- it would require the property owners to

1 connect community sewage when it became available.

2 Q So the permits shifted from a qualified

3 permit, basically, to temporary permit?

4 A Yes.

5 Q And that occurred throughout the balance of

6 '84?

7 A Yes.

8 Q And into '85?

9 A Yes.

10 Q Let me show you --

11 MR. COLE: Are those from materials that

12 have been produced to the Committee?

13 MR. GICALE: They were produced to the

14 house and made public -- off the record.

15 (Discussion off the record.)

16 MR. COLE: Actually I don't mind putting it

17 on the record. I just want to reflect the source of

18 the document since they were Bates numbered.

19 (Dobbins Exhibits 1 and 2 identified.)

20 BY MR. GICALE:

21 Q I'm going to show you what's marked for

22 identification as Deposition Exhibit 1, which is a

1 document which I believe is 1984, although the date
2 is difficult to read. It was made public by the
3 House this summer. It's addressed to Bill Teer from
4 Lex Dobbins. Perhaps you have a copy of that letter
5 and you can tell us the date. I believe it's June of
6 1984. Perhaps June 29, 1984?

7 A Yes, June 29, 1984.

8 Q Now, you wrote that letter; correct?

9 A That's correct.

10 Q What was the purpose of notifying Mr. Teer
11 at that point of what had happened at Maple Creek
12 Farms up to that date?

13 A Basically it was to indicate some of the
14 lots in which sewer systems were malfunctioning, the
15 individual sewer systems were malfunctioning, some of
16 the problems with the construction methods they were
17 using on the property and some of the site damage
18 that occurred because of that construction. And it
19 also -- this mentioned Mr. McDougal's attempts to put
20 in community sewage systems.

21 Also my last paragraph stated that I would
22 like to meet with Mr. McDougal and his engineers at

1 the earliest convenience in order to devise a plan
2 that would include an overall drainage plan and a
3 phase-in unit community sewage.

4 Q So you were continuing at that point to
5 encourage Mr. McDougal and you wanted Mr. Teer, who
6 was a supervisor, his support in urging that
7 Mr. McDougal provide community sewage --

8 A That's correct.

9 Q -- on that property; correct?

10 A That's correct.

11 Q What was the result of your sending this
12 letter to Mr. Teer?

13 A Let's see. Mr. Teer sent a letter to Jim
14 McDougal on July 2, 1985.

15 Q That was the next correspondence between
16 Teer and McDougal?

17 A I think so. And it basically -- Mr. Teer
18 indicated that it appears at this point that
19 community sewage should be immediately installed as
20 previously agreed.

21 Q Now I'm going to show you what's marked for
22 identification as Dobbins Number 2. It's a letter

1 dated August 9, 1984 to R.D. Randolph, Bruce Watson,
2 Willy McIntyre regarding Maple Creek Farms, and this
3 is from you?

4 A Yes.

5 Q With a cc to Jim McDougal and Bill Teer.
6 What was the purpose of this letter?

7 A To make certain corrections on the existing
8 sewage disposal systems, especially the ones that we
9 had noted problems with.

10 Q That was --

11 MR. COLE: Mr. Gicale, I don't know if you
12 intentionally omitted them from the chronology, but I
13 do have a couple of letters between the dates of the
14 two you just reviewed that are within the materials.

15 MR. GICALE: I would not, but I would be
16 happy to have them marked.

17 MR. COLE: Including a letter that I
18 believe Mr. Dobbins referred to to Mr. McDougal from
19 Mr. Teer and a letter then to Mr. Teer from
20 Mr. McDougal, and I think these, which are from the
21 Committee's documents, could be referenced by their
22 Bates number.

1 BY MR. GICALE:

2 Q I'm going to refer to a document marked for
3 identification as GD 173 through 174. It's a letter
4 dated July 3, 1984 to James McDougal from William
5 Teer. I want to show you this document. Can you
6 identify that document for us?

7 A I have a letter out of sequence that I was
8 reading from to Mr. McDougal from William Teer. That
9 was a July 2, 1985 -- this letter is out of sequence
10 in my file.

11 In response to your question --

12 Q So there's no confusion, when you said the
13 next response from Teer was '85, it was not?

14 A Right, that's correct.

15 MR. COLE: Maybe we could just recap for
16 the record. There was a June 29, 1984 letter from
17 you, Mr. Dobbins, to Mr. Teer, which has been marked,
18 I believe, as Exhibit 1, and then based on my
19 somewhat cursory review of the documentation, I
20 believe the next letter may be the letter that I
21 handed to Mr. Gicale, which is the July 3, 1984
22 letter to Mr. McDougal from Mr. Teer, which is Bates

1 number GD 0173 through 174, and I think that's where
2 we are now in the chronology. If you would take a
3 look at that.

4 THE WITNESS: That would have been
5 Mr. Teer's response.

6 MR. COLE: Off the record for a moment?

7 MR. GICALE: Yes.

8 (Discussion off the record.)

9 BY MR. GICALE:

10 Q I'm going to show you another document
11 that's marked for identification as GD 0176. It's a
12 letter dated July 17, 1984 to William Teer from James
13 McDougal and please identify this letter, and is this
14 a response to the July 3, '84 letter?

15 A I would assume that it is. I don't have
16 that in my file.

17 Q Well, here's the July 3, '84 letter.

18 A Yes, I would assume that's a response to
19 it.

20 Q Did you see a copy of this letter when it
21 came back?

22 A I saw a copy of that one.

1 Q The July 3, '84 letter?

2 A That's correct.

3 Q And then did you see the second letter that
4 I referred you to?

5 A The July 17, '84 to Mr. Teer from
6 Mr. McDougal?

7 Q Right.

8 A I haven't seen that one.

9 MR. COLE: Do you want to take a moment and
10 review it, Mr. Dobbins, since you haven't seen it?

11 (Witness reviewed the document.)

12 THE WITNESS: That's good enough.

13 MR. GICALE: Off the record.

14 (Discussion off the record.)

15 BY MR. GICALE:

16 Q Now, in August of 1984, did you become
17 aware of the fact that Mr. McDougal had hired an
18 attorney by the name of Larry Crane with respect to a
19 prospective purchaser for some property at Maple
20 Creek Farms who you had talked to?

21 A What was the date?

22 Q Well, this would have been in August of

1 1984.

2 A Mr. Larry Crane came to my office and
3 examined my records on Maple Creek Farms.

4 Q All right. In what capacity did he come to
5 your office, as an attorney for Mr. McDougal?

6 A I'm not sure.

7 Q Well, how did he identify himself?

8 A As Mr. Crane, Mr. Larry Crane, an attorney.

9 Q Did he tell you why he was there?

10 A He wanted to see my files.

11 Q Did he explain why he wanted to see your
12 files?

13 A Not to my recollection.

14 Q Did you subsequently learn why he wanted to
15 see your files?

16 A Not to my recollection. We let anybody
17 come in and see our files.

18 Q Did he ever indicate to you that you had
19 made some representations to a prospective purchaser
20 which caused the purchaser to back out of purchasing
21 a home in Maple Creek subdivision?

22 A I don't remember if we had that

1 conversation.

2 Q Well, did anybody tell you subsequent to
3 that that somebody had made that allegation against
4 you?

5 A I remember that I was asked about some
6 statements that I had made to some purchasers, but I
7 don't remember who made them.

8 Q You don't know who you made the statements
9 to or you don't know who told you that you had made
10 the statement?

11 A Both. I know that I had made some
12 statements to some potential buyers, and I do that in
13 the course of business.

14 Q What kinds of statements?

15 A Well, if a buyer was to call me and ask me
16 about Maple Creek Farms, I would give them my
17 opinion, professional opinion.

18 Q And your opinion during that time period
19 was?

20 A There are large marginal soils out there
21 and if they obtained a permit from me, it would
22 reflect whether or not it was in an unsuitable soil,

1 and if it is in a marginally suitable or unsuitable
2 soil, the system is prone to malfunction.

3 Q Anything else that you may have said?

4 A I may have had a similar discussion with
5 another lending institution.

6 Q Do you know which one?

7 A No. Of course, as a course of business, we
8 advise any individual who intends on purchasing a
9 piece of property to get a permit and review that
10 permit before they purchase it. That's just an
11 advisory situation. We do not require that, of
12 course.

13 Q Now, do you know precisely when it was that
14 Mr. Crane visited your offices?

15 A Well, I have a letter dated August 22, 1984
16 from Mr. Teer to Mr. Crane, advising him that he
17 could examine the records at the state Health
18 Department and also he could examine the files of the
19 Saline County Health Department if he directs a
20 written request to do so.

21 Q So it was pursuant to that letter that
22 Mr. Crane came to visit you?

1 A I believe so.

2 Q Now, continuing on through the balance of
3 1984, did anything else happen of significance during
4 the balance of that year with respect to that
5 property?

6 A I have a letter from James McDougal to Bob
7 Holloway, the engineer for Maple Creek Farms, with
8 references in your letter November 26, 1984
9 concerning your inquiry from the state Health
10 Department when we propose to begin construction of
11 the pressure sewer system of Maple Creek Farms.

12 Q Of the what sewer system? Is that the
13 community sewer system?

14 A That's correct. "As we agreed in our
15 conversation, subsequent to your letter the earliest
16 practical time to undertake construction is after
17 cessation of the spring rains in 1985. Therefore, it
18 is our intention to begin construction at that time.
19 Sincerely Jim McDougal."

20 Q Now, were you copied on that letter at that
21 time?

22 A The division of sanitarian services, that's

1 Mr. Teer's office, sent me a copy.

2 Q So now at this juncture, this is again
3 November of 1984, is that the date of that letter?

4 A Yes, yes.

5 Q Did your department then agree that that
6 would be the appropriate time to build this community
7 sewer system?

8 A I'm not sure as to what communication,
9 specific communication they had. I know there was an
10 ongoing procedure to get the technical specifications
11 approved during that time.

12 Q Well, was there ever any deadline set on
13 when the community sewer system would be put in
14 place?

15 A Not to my knowledge.

16 Q Just an agreement to put one in?

17 A That's my understanding.

18 Q So during this time period in '84-85, there
19 were discussions as to specifications and then this
20 latest letter refers to possibly putting it in in the
21 spring of 1985; correct?

22 A That's correct, that's my understanding.

1 Q Now, did anything of any significance occur
2 in 1985 with respect to the property?

3 A Seems like the development was slowing down
4 quite a bit, it was just kind of a wait-and-see on
5 both sides I guess you might say.

6 Q Both sides, you mean the Health Department
7 or are you talking about potential --

8 A The Health Department and Mr. McDougal.

9 Q Was there an understanding that he wouldn't
10 continue to develop until this community sewer system
11 was in place?

12 A No, we were still going to cooperate with
13 Mr. McDougal and issue temporary permits in Maple
14 Creek Farms.

15 Q Well, what was the wait-and-see part of it,
16 then?

17 A Well, to get a set of plans, complete
18 plans, reviewed and approved in the division of
19 engineering it seems can be a time-consuming process.

20 Q Complete set of plans for a community sewer
21 system?

22 A Community sewer system, right. There was

1 quite a bit of correspondence, I believe, going back
2 and forth from our engineering department to
3 Mr. McDougal's engineer during that time.

4 MR. COLE: But Mr. McDougal had retained an
5 engineering firm and they were working on the
6 project?

7 THE WITNESS: That's correct.

8 MR. COLE: And consulting with your
9 department during this period?

10 THE WITNESS: That's correct.

11 BY MR. GICALE:

12 Q So that continued on through 1985?

13 A That is the best of my recollection, that's
14 my recollection.

15 Q Did you have any discussions with McDougal
16 the balance of '84 or '85 with respect to his
17 project?

18 A The only letter would be the July of '85
19 letter that I mentioned out of sequence earlier.

20 Q What's the date of that letter again?

21 A July 2, 1985 to Jim McDougal from Bill
22 Teer.

1 Q And what was the purpose of that letter?

2 A There were some malfunctioning septic tank
3 systems that had been noted by me, and --

4 Q On individual lots?

5 A Yes, and that's when Mr. Teer stated that a
6 community sewer system should be immediately
7 installed as previously agreed.

8 Q So now the date of that again is what?

9 A July 2, 1985.

10 Q So now previously there was no timetable on
11 the system, just an agreement to put one in?

12 A There never was a timetable, I don't
13 believe.

14 Q But now as of this letter --

15 A Well, if we can determine what "immediately
16 installed" is.

17 Q So the letter indicates immediately
18 installed; it doesn't indicate a date?

19 A That's correct.

20 (Dobbins Exhibit 3 identified.)

21 BY MR. GICALE:

22 Q Showing you what's marked for

1 identification as Dobbins Exhibit 3, a letter dated
2 July 16, 1985 to Bruce Watson, William McIntyre
3 regarding individual sewage disposal system, lot
4 315. This is from Lex Dobbins.

5 Once again, this is a document provided to
6 the House and made public in August of this year.
7 Can you identify that letter?

8 A Yes.

9 Q Now, is that a letter to representatives of
10 Mr. McDougal about a problem with another sewage
11 disposal system on a separate lot?

12 A It was on -- I believe it referred to lot
13 315. That letter is addressing the problem at lot
14 315 is all I can tell you.

15 Q And is there any significance to 315, lot
16 315?

17 A It may have been in the process of being
18 sold again or --

19 MR. GICALE: Off the record for a second.
20 (Discussion off the record.)

21 BY MR. GICALE:

22 Q I'm going to show you what's marked for

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1 identification as GD 01884. It's a July 15, '85
2 memorandum to Jim McDougal from Bruce Watson, and I'm
3 going to direct your attention to the last paragraph
4 of this memorandum to determine whether or not this
5 refreshes your recollection as to the lots that you
6 had expressed some concern about to McDougal in July
7 of '85 and what the result was with respect to them.

8 (Witness reviewed the document.)

9 A I doubt if it helped readjust my attitude.

10 Q Well, specifically what you're referring to
11 is the last paragraph of that memorandum says as
12 follows: "Also last Friday Willy McIntyre called Lex
13 Dobbins' supervisor, J.P. Jones." Now, Mr. Jones was
14 your supervisor in Saline County or in the Health
15 Department in Little Rock?

16 A He was an area supervisor, my supervisor
17 within Saline County.

18 Q "About two septic tank systems at Maple
19 Creek. Lex had told myself and Willy that the ground
20 was too wet to install a system on lot 76 and also
21 too wet to cover up a system on lot number 642.
22 Subsequently we had a meeting at Maple Creek with

1 J.P. Jones, Lex, Willy and myself. Jones told us we
2 could install a system on lot 76 and cover up the
3 system on lot 642. I believe the outcome of this
4 meeting helped readjust Lex's attitude towards Maple
5 Creek."

6 Now, were those the two lots that you were
7 referring to earlier that you had a problem with?

8 A I had many lots that I referred to in
9 earlier correspondence that I had problems with.

10 Q Well, were those lots in July of 1985 two
11 lots, 76 and 642, that you had a problem with?

12 A What were the lot numbers?

13 Q 76 and 642.

14 A They weren't mentioned in my July 2, '85
15 letter.

16 Q Did you ever indicate to them that the
17 ground was too wet to install systems on lot 76 and
18 642?

19 A Oh, I must have.

20 Q Did you recall having a meeting at Maple
21 Creek with J.P. Jones, Willy McIntyre and
22 Mr. McDougal with respect to those two lots?

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1 A I don't recall the meeting.

2 Q Do you recall Jones telling McDougal that
3 he could install a system on lot 76 and cover up the
4 system on lot 642?

5 A I don't recall.

6 MR. COLE: Just so the record is clear,
7 Mr. Gicale, I don't believe Mr. McDougal was at that
8 meeting, I believe it's Mr. Watson who was the author
9 of the memorandum.

10 MR. GICALE: I'm sorry, it's true.
11 Mr. Watson.

12 MR. COLE: The way you read it into the
13 record indicated Mr. McDougal was present.

14 BY MR. GICALE:

15 Q Or Mr. Watson, a meeting with Mr. Watson.
16 Do you remember attending a meeting with Mr. Watson
17 on that date?

18 A I don't recall that meeting. I'm sure it
19 happened, but I don't recall if.

20 Q Well, do you recall any occasions when
21 Jones came with you to the site and was asked to
22 review some decisions you made with respect to lots

1 and the property?

2 A Mr. Jones had made more than one trip to
3 the property to mediate discussions between Madison
4 Financial and myself and Mr. McIntyre and myself.

5 Q Well, is it fair to say up to that point
6 and throughout the balance of 1985, that Mr. McDougal
7 or his representatives disagreed from time to time
8 with your decisions with respect to issuing permits
9 on these properties?

10 A I would say that's a fair statement.

11 Q Well, do you want to characterize your
12 disagreements with Mr. McDougal and his
13 representatives with respect to this property in '84
14 and '85?

15 A Well, I wasn't really pleased with the way
16 the development was going anyway, with the lack of
17 information being given to the buyers, Mr. McIntyre's
18 method of installing sewage disposal systems, the
19 individual sewage disposal systems, I was not pleased
20 with the way he was doing that by installing them in
21 wet soil. However, our regulations do not address
22 wet soil installations. That was strictly based on

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1 my own experience. I really had no authority to stop
2 one from installing systems in wet soil.

3 MR. COLE: The problem with the wet soil
4 was the compaction of the soil, heavy equipment on
5 the wet soil then would affect how well the system
6 would function?

7 THE WITNESS: That's correct.

8 BY MR. GICALE:

9 Q And you conveyed this to Mr. McDougal or
10 his representatives and you expressed that as a
11 concern to them?

12 A Mostly I conveyed it to Mr. McIntyre. I
13 did, in earlier correspondence, express my concerns
14 to Mr. Teer, who expressed them to Mr. McDougal. As
15 far as site protection, I did write Mr. McIntyre a
16 letter on June 24 of '85 and indicated to him that
17 the manner in which he was operating out there as an
18 installer may ultimately result in the revocation of
19 his registration as an installer of individual sewage
20 disposal systems.

21 MR. COLE: This may be in the record, and I
22 apologize if I missed it, but was Mr. McIntyre an

1 employee of Maple Creek Farms or Madison or an
2 independent contractor working for them?

3 THE WITNESS: That's a good question. I
4 think Mr. McIntyre was an employee, he was an
5 installer, septic tank installer, that lived on site
6 and installed the systems for Mr. McDougal.

7 BY MR. GICALE:

8 Q He lived at Maple Creek Farms?

9 A That's correct. As a matter of fact, I had
10 to threaten him to put his own system in.

11 Q Now, did your supervisor, Mr. Jones, agree
12 with your position on these various properties?

13 A As far as I was aware, he agreed.

14 Q Well, the last memo that we showed you,
15 which talks about readjusting your attitude, do you
16 remember him overruling you on some particular
17 systems in July of 1985?

18 A Based on the correspondence, piece of
19 correspondence you're holding, apparently he did
20 allow them to go forward with the installation and
21 covering the system. I don't remember at that
22 particular point in time if we agreed on that day or

1 not.

2 Q I mean, if there was a disagreement like
3 this, would Mr. Jones come back to you and talk to
4 you about it and see whether or not you would change
5 your position on these things?

6 A Well, Mr. Jones never asked me to change my
7 position. He may have had a difference of opinion,
8 but he never saw a problem with my work out there as
9 far as I know.

10 Q So it's fair to say you had a number of
11 disagreements with McDougal, his representatives,
12 Mr. McIntyre, with respect to the septic systems that
13 were being put in the property, the quality of them
14 and how this would affect the purchasers of property;
15 correct?

16 A Well, I had that problem with
17 Mr. McIntyre. I assumed he was the one who was
18 initiating the installation, the actual
19 installation. I don't know if he was doing it
20 directly at Mr. McDougal's request or just as a
21 matter of business.

22 Q Did anything else of significance happen in

1 1985 that you recall with respect to this
2 development, Mr. McDougal and Mr. McIntyre?

3 A Not that I can recollect.

4 Q I'm going to show you what's marked for
5 identification as document 134 -- strike that.

6 DKSX 013414. This is a document dated
7 January 17, 1986 from Mr. McDougal. It says "state
8 sanitarian, William Teer, Saline County sanitarian,
9 Lex Dobbins." I want you to take a look at this and
10 see if you can identify that, see whether you've ever
11 seen a copy of that.

12 MR. COLE: That's the memorandum that has a
13 "from" line, but no "to" line, am I correct in my
14 recollection of that?

15 MR. GICALE: Right, that's correct.

16 (Witness reviewed the document.)

17 THE WITNESS: That's the first time I've
18 seen that, I believe.

19 BY MR. GICALE:

20 Q The third paragraph of that memorandum says
21 "strict written instructions from Teer to county
22 sanitarians to not," and that is underlined, "discuss

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1 our subdivision with our customers." Do you know
2 what that's about?

3 A I don't have any direct knowledge.

4 Q Did you receive any instruction from Teer
5 to not discuss McDougal's subdivision with customers?

6 A Not to my recollection.

7 Q Was he complaining to Teer or any of your
8 superiors that you were discussing the subdivision
9 with potential customers?

10 A I don't have any direct knowledge of that.

11 Q Well, what's your indirect knowledge?

12 A Indirect knowledge. Hmm. Well, you know,
13 we were ultimately removed from the project in early
14 '86. I think that happened because of
15 Mr. McDougal's concerns that we were conspiring to
16 regulate him. As a matter of fact, I had discussions
17 with other inspectors who had some projects that
18 Mr. McDougal also had, and I think he was aware of
19 that at that point in time.

20 Q He, McDougal, was aware --

21 A I assume that he was.

22 Q -- of inspectors for other projects that

1 were having similar difficulties with Mr. McDougal?

2 A Well, that we were discussing. I have
3 discussed my project with my co-workers in other
4 counties and they would discuss their projects with
5 me just as a matter of business.

6 Q Which co-workers are you referring to in
7 which counties and which projects?

8 A Lane Townsend.

9 Q Which county?

10 A Pulaski.

11 Q Which project?

12 A Brittany Point.

13 Q And he was having problems with McDougal on
14 septic systems?

15 A I don't know if he was or not. I just
16 was --

17 Q You were discussing it with him?

18 A Exchanging information.

19 Q And who else did you discuss it with?

20 A I may have discussed it with Tom Jenkins.

21 Q Which county was he in?

22 A White County. That project was Eden Park.

1 Q Was he having problems as well?

2 A I don't know. We just simply --

3 Q Discussing the situation?

4 A Uh-huh, yes.

5 Q Anybody else you discussed it with?

6 A Oh, my co-worker Bob Stuart.

7 Q Now, would you have been supervising
8 Mr. Stuart or was he a sanitarian as well?

9 A He was a sanitarian as well. He didn't
10 have anything to do with this project. He had one
11 half the county and I had the other half.

12 Q I'm going to show you what's marked for
13 identification as DKS 013436. This appears to be
14 some kind of a summary that you prepared for the
15 period 9-1-85 through 2-14-86, and the title of this
16 document is "conferences and discussions concerning
17 Maple Creek Farms." Can you take a look at that.

18 (Witness reviewed the document.)

19 A I would consider that a partial record of
20 conferences and discussions. I'm sure I had more
21 than that.

22 Q Who requested you to prepare that, if you

1 know?

2 A I don't remember.

3 Q I'm going to show you another document
4 marked for identification as GD 0188, a document
5 again provided to our Committee and the House, it is
6 dated February 20, 1986. It's from Bruce Watson to
7 Jim McDougal regarding a call that Watson apparently
8 received from you on February 19, '86. Can you
9 review this for a moment and see whether or not it
10 refreshes your recollection with respect to that
11 call.

12 (Witness reviewed the document.)

13 A I don't remember specifically.

14 Q So you don't remember any discussion about
15 that specific lot or lot 641?

16 A Oh, I'm sure the discussion took place, but
17 I don't recall it. I'm saying that based on that
18 piece of correspondence you have. We had many frank
19 discussions out there.

20 Q What is the next significant event that you
21 recall occurring in early 1986?

22 A Well, the most significant I guess would be

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1 being removed from the project.

2 Q How was it you came to be removed from the
3 project?

4 A I forgot who called me from the central
5 office, but all three inspectors were called in and
6 we met with the people in the meeting were Bill
7 Teer --

8 Q First of all, who were the three inspectors
9 that were called in?

10 A Lane Townsend, Tom Jenkins and myself.
11 Mr. Hill and Mr. Butler had called us in.

12 MR. COLE: I'm sorry, so you met with Teer,
13 Hill and Butler?

14 THE WITNESS: Mr. Teer was at the meeting.
15 Mr. Hill and Mr. Butler basically chaired the
16 meeting. Mr. Teer was at it, at the meeting, his
17 associate Mr. Jim Shelby was at the meeting. Another
18 bureau director, Mr. Jim Mills was at the meeting,
19 and they basically -- Mr. Hill and Mr. Butler thanked
20 us for doing a good job and informed us that we were
21 going to be removed from the projects and new
22 sanitarians would be assigned to the projects.

1 BY MR. GICALE:

2 Q Do you know what the date of this meeting
3 was?

4 A Well, the memo of transfer of
5 responsibility is March 11, 1986, and I would say it
6 was either that day or right before that. It seems
7 like after the meeting we had we went down and
8 prepared this document. I helped Mr. Shelby prepare
9 this document.

10 Q I'm going to show you what's marked for
11 identification as document Bates numbered DKSX 013281
12 through 282. This is a memorandum to Tom Butler
13 through Bill Teer from Jim Shelby dated March 11, '86
14 regarding transfer of all documents and
15 responsibilities regarding Maple Creek Farms,
16 Brittany Point and Eden Park.

17 A Yes.

18 Q Is that the memorandum notifying --

19 A That was the memorandum that made the
20 transfers official.

21 Q Now, did they tell you why you were being
22 transferred?

1 A Well, I think they basically indicated,
2 Mr. Butler indicated that Mr. McDougal felt that I
3 was harassing him and that there was a personality
4 conflict and that I had probably been in
5 communication with the other inspectors.

6 Q Was Mr. McDougal having problems with the
7 other inspectors as well?

8 A I don't know. My own opinion is I think
9 Mr. McDougal read more into the situation than was
10 really there.

11 Q But it was because you had -- they told you
12 because you had communicated to the other inspectors?

13 A Well, no. Basically it was that there was
14 a personality conflict between myself and
15 Mr. McDougal, that was a primary factor.

16 MR. COLE: I'm sorry, who told you this,
17 Mr. Dobbins?

18 THE WITNESS: Mr. Butler.

19 MR. COLE: Was that at the time you were
20 transferred or was it at some subsequent time?

21 THE WITNESS: That was at the time I was
22 transferred.

1 MR. COLE: Was this during the meeting that
2 you described earlier?

3 THE WITNESS: Yes. Mr. McDougal had gone
4 to the governor's office or asked for a meeting at
5 the governor's office and Mr. Hill and Mr. Butler and
6 Dr. Saltzman attended that meeting and that's where
7 Mr. McDougal expressed his concerns about my
8 activities.

9 BY MR. GICALE:

10 Q Did you know the date of the meeting at the
11 governor's office?

12 A No. It would have been just before this
13 memorandum of transfer, but Mr. McDougal could have
14 affected the same transfer without going to the
15 governor's office. It was standard operating
16 procedure any time a developer complained to the
17 state Health Department about unfair treatment, the
18 sanitarian would be reassigned. Standard operating
19 procedure.

20 Q So whether it was justified or it wasn't?

21 A That's correct. The agency had an
22 attitude, not that I agree with it, and they will

1 tell you that I don't, that any time they had a
2 situation like that, they would always try to correct
3 what they called the level playing field to show no
4 bias in the way we regulated the developers.
5 Standard procedure.

6 Q So --

7 MR. COLE: I'm sorry.

8 BY MR. GICALE:

9 Q So if a developer complained, so if the
10 developer wanted to remove Lex Dobbins, all they had
11 to do was go to the Health Department and say remove
12 Lex Dobbins and the Health department would do that?

13 A That's correct.

14 MR. COLE: Was that a formal policy in
15 writing or was that just a practice developed over
16 time?

17 THE WITNESS: It was the practice at that
18 time. And over the years I have used every
19 opportunity that I have had to express my concerns of
20 doing that kind of thing. We have a new director
21 now, Dr. Sandra Nichols, and she has stated that that
22 will not be done anymore in so many words.

1 BY MR. GICALE:

2 Q Well, supposing a new sanitarian was
3 appointed and the developer didn't like that
4 sanitarian, could the developer then continue to veto
5 the sanitarian that was on the project until they got
6 one that they wanted to work with?

7 A In that period of time back then, that was
8 pretty standard. Now I think there's more of a
9 concern for the employees who are on the regulatory
10 end of the Health Department, not to treat them in
11 that manner.

12 Q But at that point in time --

13 A At that point in time, it was pretty
14 standard.

15 Q -- if they said Dobbins is off and Mr. X is
16 in, and if the developer didn't like the Dobbins
17 successor Mr. X, the developer could say I don't like
18 X either, give me Y?

19 A That's correct.

20 Q Or give me Z?

21 A That's correct.

22 Q Could the developer pick the sanitarian

1 that they wanted on the project?

2 A Well, I'm not aware that a developer has
3 ever picked a sanitarian. I know that they have gone
4 through in the past --

5 Q Lists of people until they got one they
6 were satisfied with?

7 A Basically.

8 MR. COLE: Do these kind of disputes come
9 up frequently?

10 THE WITNESS: Well, they came up more than
11 once. They would come up off and on.

12 MR. COLE: So there was an established
13 practice of the nature that you've described, of
14 automatically essentially replacing inspectors when a
15 problem arose with the developer?

16 THE WITNESS: That's correct, that's
17 correct.

18 BY MR. GICALE:

19 Q The meeting -- strike that.

20 Off the record.

21 (Discussion off the record.)

22 BY MR. GICALE:

1 Q Based on some records we have here, we
2 believe that the meeting may have occurred on or
3 about March 4, 1986. Do you know whether or not that
4 was the date that the meeting occurred with the
5 governor?

6 A No, I don't.

7 Q Were you told in advance of the meeting
8 that occurred with the governor that Mr. McDougal
9 would be meeting with Butler and Teer and Saltzman
10 and others to discuss McDougal's concerns?

11 A No.

12 Q You only found out about it --

13 A The day we were transferred.

14 Q The day you were transferred.

15 A I'm assuming, if my memory serves me, that
16 the March 11 memo was the day we were transferred, I
17 think.

18 Q Did Teer, Hill and Butler tell you what
19 occurred in the meeting, what kind of allegations
20 McDougal made in the meeting, what allegations he
21 made to the governor about you in the meeting?

22 A The only part I really remember is it was a

1 conflict in personalities, that Mr. McDougal felt
2 that I was treating him unfairly. And Mr. Butler
3 stated that Mr. McDougal said that I had something on
4 Mr. Butler and that's why they couldn't control me,
5 which was news to me.

6 Q Butler told you that McDougal --

7 A Said that I had something on Mr. Butler and
8 that was part of the reason I was conducting myself
9 in such a manner, but I didn't have anything on
10 Mr. Butler.

11 Q And Butler claims that Mr. McDougal made
12 this allegation to the governor in the meeting?

13 A That's correct.

14 Q Do you know of any other allegations that
15 Mr. McDougal made about you in that meeting with the
16 governor?

17 A No.

18 Q Now, prior to the time you were transferred
19 from this assignment and reassigned from this matter,
20 did any of your superiors indicate that they
21 disagreed with your position, various positions at
22 Maple Creek Farms with respect to the various septic

1 systems and permits and the community sewer
2 treatment?

3 A No, not to my knowledge.

4 Q Did they indicate to you prior to your
5 removal that McDougal was complaining to them about
6 your position on the sewer system at Maple Creek
7 Farms and that you should change decisions that you
8 were making or change your conduct?

9 A Not to my knowledge.

10 Q Were you keeping your superiors apprised of
11 what was going on with McDougal and the subdivision
12 Maple Creek Farms during '83, '84 and '85?

13 A I felt that I was.

14 Q Did Mr. McDougal or any of his
15 representatives indicate to you that because he felt
16 he was being treated unfairly or they were being
17 treated unfairly, that he was going to go to the
18 governor to discuss the matter?

19 A No, I was quite surprised.

20 Q Did McDougal or his representatives ever
21 boast about the relationship that McDougal had with
22 the governor?

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1 A Oh, early on I think Mr. Randolph told me
2 that they were friends of the governor.

3 Q How did that come up?

4 A I think we were riding in my vehicle or his
5 looking at the project.

6 Q Was that in '83, '84 or '85?

7 A '83 probably. But they never threatened me
8 with the governor or their relationship with the
9 governor in any way.

10 Q Well, how did it come up that they said
11 that they were friends with the governor?

12 A Oh, it was just in normal conversation.
13 Those kind of things don't affect the way I do
14 business, though.

15 Q Well, I mean, did they just volunteer that
16 they were friends of the governor or did they --

17 A They just volunteered, in passing, more or
18 less in a passing statement.

19 Q Well, what would that have had to do with
20 their development or their sewer system?

21 A Well, early on, the very first meeting, I
22 wanted them to put in a community sewer system and

1 discussed that aspect with them. And that was
2 probably a difference of opinion that they had versus
3 what I had as to how the development should be
4 developed, and they -- I don't know why Mr. Randolph
5 did that.

6 Q Why Mr. Randolph --

7 A Told me they were friends with the
8 governor.

9 Q But it was after you said you had some
10 problem with their sewer system?

11 A No, he told me that early on. He mentioned
12 early on that they were friends with the governor.
13 That was like in the first week or two that I was out
14 there, I think.

15 Q Okay. But it was early on, in your first
16 meeting with them was when you expressed some concern
17 about the suitability of the soil for development for
18 septic system?

19 A I'm sure I expressed it early on.

20 Q And so was the reference to the governor
21 before or after you said to them, you've got problems
22 with the soil and septic system?

1 A It was so long ago, I don't remember. Like
2 I say, they never threatened me with any political
3 avenues.

4 Q So you were surprised --

5 A It wouldn't matter if they did.

6 Q So you were surprised, then, that a meeting
7 did occur with the governor in '86?

8 A Yes, yes, they could have accomplished the
9 same thing by going straight to the Health
10 Department, they didn't have to go to the governor.
11 The decision to remove us would have been the same if
12 Socks had been sitting in the chair.

13 Q Do you know the governor or did you know
14 the then-Governor Clinton?

15 A No, not personally. Never met the man.

16 Q Did you know McDougal before this?

17 A No.

18 MR. COLE: Had you had prior dealings with
19 Mr. McIntyre?

20 THE WITNESS: Yes, he was an installer in
21 Saline County, and I worked with him on some other
22 projects.

1 MR. COLE: Had you had problems with him in
2 the past?

3 THE WITNESS: Not any real big problems.

4 MR. COLE: Thank you, Mr. Gicale.

5 BY MR. GICALE:

6 Q Now, was that the last you had to deal with
7 that project after you were removed in '86?

8 A Well, no. The sanitarian that took over
9 the project.

10 Q Who was that?

11 A Terry Brumbelow, I recommended when they
12 asked me who they thought I would like to give the
13 project to, I did recommend Mr. Brumbelow. He later
14 transferred out of that area. He was in Grant
15 County, and this development was close to Grant
16 County. He later transferred out and took a position
17 in the state Health Department as program
18 administrator for the sewage disposal program, at
19 which time he asked if I would like to resume
20 responsibility for the project.

21 Q When was that?

22 A It would have been in April of 1988.

1 Q McDougal was out of the project by that
2 point in time; correct?

3 A I believe so. I'm not sure when
4 Mr. McDougal left.

5 Q So April '88 you again assumed
6 responsibility for the project?

7 A Yes.

8 Q Were the same problems in existence when
9 you assumed the project in '88?

10 A Yes.

11 Q Was the community sewer system in place at
12 that point?

13 A Still in the works.

14 Q And by that point in time, were people
15 having problems with the sewer systems, the septic
16 systems on the property?

17 A Well, we weren't getting any complaints,
18 but I assumed that there were problems, and they were
19 seasonal problems. Those systems in that type of
20 soil usually manifested themselves during the wet
21 season, but we took a stronger approach when
22 Mr. Brumbelow reassigned me because of the past

1 performance of Madison Financial, we took a tougher
2 stance and would only issue permits in soils that
3 demonstrated adequate suitability for on-site sewage
4 disposal.

5 Q Do you recall in January or February,
6 before the meeting McDougal had with the governor,
7 meeting with Tom Butler to see whether or not
8 McDougal's complaints could be resolved? Do you
9 recall whether he met with you, Townsend, Jenkins and
10 Teer to discuss the difficulties with McDougal prior
11 to the meeting when he told you that you would be
12 reassigned?

13 A No, never had any such meeting prior to
14 being removed.

15 Q Do you recall some retired Army colonel who
16 bought some piece of land at Maple Creek who had been
17 complaining about the property and the sewer system?

18 A What was his name?

19 Q I don't have his name at this point. Do
20 you recall of anybody complaining?

21 A There was one individual that I remember
22 complaining, I don't remember their names, but they

1 had built a swimming pool over part of their sewage
2 disposal system and it was giving them some problems.

3 Q Were you ever asked by Butler whether or
4 not any of you had had a particular problem or
5 conflict with McDougal?

6 A I don't recall Mr. Butler ever asking.
7 Mr. McDougal and I did have some frank conversations,
8 but --

9 Q What were those conversations and when did
10 you have them?

11 A Well, I just remember one probably halfway
12 through the project, I was concerned that they were
13 building two houses too close together, and I think
14 Mr. Randolph took me down to see Mr. McDougal at the
15 sales office. You could tell Mr. McDougal was
16 somewhat upset. However, we went out there,
17 Mr. McDougal and Mr. Randolph and myself,
18 Mr. McDougal looked at the two houses and said the
19 damn things are too close together, stop
20 construction.

21 Q So you agreed?

22 A Yes.

1 Q When was that, do you recall?

2 A Early on in the project.

3 Q Do you know whether it was '83, '84 or '85?

4 A Not really.

5 Q And were there any other instances where

6 you had some disagreement with Mr. McDougal where you
7 exchanged words with him?

8 A Not specifically, no, I don't remember any
9 other discussions wherein there was any animosity
10 displayed.

11 Q Did McDougal ever indicate to you that he
12 was dissatisfied at being requested to sign the
13 memorandum of understanding? There were two of them,
14 but either of them?

15 A I think he expressed some dismay at signing
16 the second one.

17 Q And the second one was the requirement that
18 he set up a community sewer system?

19 A Right.

20 Q And attach the lots with certain exceptions
21 to it; correct? And he expressed dissatisfaction
22 over that?

1 A I think he was not happy signing it. I
2 believe he was informed by either Mr. Teer or
3 Mr. Shelby that it's up to him whether he wants to
4 sign it or not, but --

5 Q How do you know he was unhappy signing that
6 agreement?

7 A I think I was at the meeting.

8 Q Well, how did he express his unhappiness?

9 A Just disgruntled.

10 Q Did he refer to Teer and Bruno Kirsch as
11 incompetent bureaucrats?

12 A I don't remember exactly what he said.

13 Q SOBs?

14 A Maybe he said that.

15 Q Did he tell them that the memorandum was
16 worthless, that the governor was his good friend?

17 A I don't remember him saying anything about
18 the governor in that meeting.

19 Q Would that meeting have occurred just
20 shortly prior to the signing of that second
21 memorandum of understanding?

22 A I think he signed that second memorandum of

1 understanding at that meeting.

2 Q That was signed on April 26, 1984, so that
3 discussion would have occurred then; correct?

4 A As best as I can recollect.

5 Q Was there ever a discussion about obtaining
6 a soil scientist from the university to come out and
7 check out the situation?

8 A I think some soil scientists from the
9 university did go out there.

10 Q Did that occur prior to you being removed
11 from the project?

12 A It was probably after I was removed. I'm
13 not sure. I'm not really sure.

14 Q Do you know whether or not they agreed with
15 your position on these various parcels of property?

16 A I don't know.

17 Q Do you know whether or not Mr. Butler told
18 you that at the meeting with the governor, McDougal
19 said that he felt he was being ganged on, that there
20 had been nothing but duplicity and trickery from the
21 Health Department? Do you recall those words being
22 used?

1 A I don't recall those words specifically
2 being used. Mostly he told me it was a personality
3 conflict, which was a surprise to me.

4 MR. COLE: Which was a surprise to you?

5 THE WITNESS: Yes.

6 BY MR. GICALE:

7 Q Did they indicate to you, Mr. Butler or
8 anyone else at that meeting -- and again, this is the
9 meeting on the date that you were told that you'd be
10 reassigned -- did they indicate to you that McDougal
11 said that you, Dobbins, had made a concerted effort
12 of intimidation?

13 A Well, I don't know if I'm that
14 intimidating.

15 Q But did they indicate that McDougal had
16 stated that to the governor?

17 A I don't recall.

18 Q Did they indicate that McDougal told the
19 governor that you had been harassing him and had
20 induced someone to file a lawsuit?

21 A He may have said something about me
22 harassing him, which would have been a surprise to

1 me, too. I don't know anything about a lawsuit.
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1 BY MR. GICALE:

2 Q Now again, the other sanitarians that you
3 had communicated your concerns with, they were also
4 transferred on that same day; correct?

5 A That's correct.

6 Q And other than being reassigned to the
7 project in April of '88, did you have any further
8 involvement with the project between the time you
9 were removed in '86 and April of '88?

10 A No, not that I remember.

11 Q Did you have any further conversations with
12 anybody in the department or outside the department
13 with respect to Maple Creek Farms during that time
14 period, '86 to '88?

15 A Oh, I'm sure I had numerous informal
16 conversations.

17 Q With whom?

18 A I wouldn't remember. My co-workers. We
19 all take offense if we're removed from projects on
20 the front lines, and it would just be barracks talk.

21 Q Your frustration at being removed?

22 A Sure.

1 Q Did your successor, for instance, come to
2 you requesting any advice or discuss with you
3 anything that happened subsequent between '86 and
4 '88?

5 A We didn't have much discussion. I think he
6 tried to enforce the law to the best of his ability.

7 Q Did you have any further discussions with
8 McDougal or determine whether or not he had had any
9 further discussions with the governor with respect to
10 this?

11 A No.

12 MR. GICALE: Off the record one minute.
13 (Discussion off the record.)

14 MR. GICALE: I have nothing further at this
15 point.

16 EXAMINATION

17 BY MR. COLE:

18 Q I only have a few questions, Mr. Dobbins, I
19 just want to make sure I understand your testimony
20 correctly. As I understand the situation at the
21 Maple Creek development beginning in 1983, there was
22 a problem in that for lots or tracts larger than

1 three acres, you essentially had no authority in
2 terms of regulating the kind of sewage disposal that
3 was put in place in those lots; is that correct?

4 A Well, I didn't have any authority over the
5 sale and development of those lots. I had the
6 responsibility to issue some type of permit, either
7 during the construction or after the fact. It was a
8 difficult position to be in at that point in time.

9 Q And essentially you were not able to do
10 anything to protect the rights of the purchasers of
11 the lots who might not be aware of problems at the
12 time they purchased the property; is that correct?

13 A That's correct.

14 Q And was that frustrating to you in trying
15 to do your job as a state regulator in looking after
16 the public interest?

17 A Yes.

18 Q And as time went forward and the plans for
19 the development changed to encompass lots smaller
20 than three acres, you've described the discussions
21 that took place which essentially involved installing
22 a community sewage treatment facility; is that

1 correct?

2 A That's correct.

3 Q And in the course of those discussions, did
4 your relations with Mr. McDougal and the persons who
5 were working for him, Mr. Watson and Mr. McIntyre,
6 deteriorate over time?

7 A Well, I did detect some concerns on their
8 part. We had some very frank discussions.

9 Q When you say "frank discussions," would it
10 be fair to characterize those as disagreements?

11 A Yes.

12 Q Between you representing the state and
13 Mr. McDougal or others at the development?

14 A Yes.

15 Q Had the situation reached the point in 1986
16 where it was affecting your ability to work with the
17 developers to try and resolve the problems?

18 A No.

19 Q So in your view it had not reached that
20 point?

21 A No.

22 Q But in any event, your understanding was

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1 there came a time that Mr. McDougal requested a
2 meeting with the governor and complained about you in
3 particular?

4 A That's my understanding.

5 Q With regard to your actions with Maple
6 Creek project; is that correct?

7 A That's correct.

8 Q I believe you further testified that at
9 that time the policy of your department was to
10 reassign inspectors any time a problem or dispute
11 arose with the developer; is that correct?

12 A That's correct.

13 Q And was that a process that essentially
14 would have been carried out automatically once a
15 problem came to the attention of your supervisors in
16 the department?

17 A It would only be addressed if the developer
18 discussed it with management, upper management.

19 Q But once the developer brought it to the
20 attention of upper management, the immediate reaction
21 or the automatic reaction would be to reassign the
22 inspector and bring a new inspector in?

1 A That's correct.

2 Q And would that have been the case whether
3 or not your supervisors agreed with the position that
4 was taken by the developer in the dispute with the
5 inspector?

6 A Repeat the question.

7 Q Yes. My question is, would the
8 reassignment or transfer have taken place regardless
9 of whether or not management in the department agreed
10 with the position of the developer in the dispute?

11 A The transfers would have taken place
12 regardless of their opinion.

13 Q And did anyone in your department or
14 elsewhere in state government ever direct you to give
15 Mr. McDougal any special treatment or lenient
16 treatment?

17 A No.

18 MR. COLE: I don't have anything further.

19 EXAMINATION

20 BY MR. GICALE:

21 Q Since being removed, other than your
22 co-workers, has anyone from the former governor's --

1 Governor Clinton's staff or anybody from the White
2 House ever tried to talk to you about this matter?

3 A Not that I can recall.

4 Q Any representatives of the White House or
5 anybody from the former Governor Clinton's staff?

6 A No. I've had a few reporters call me in
7 the last several months, but that's just the media.

8 Q Have you given statements to anyone else
9 about what happened?

10 A Not that I recall.

11 Q Were you interviewed by people from the
12 House?

13 A No.

14 Q Or your deposition taken by them?

15 A No. The FBI has wanted to meet with me,
16 but they have had scheduling problems.

17 MR. COLE: Were those FBI agents working
18 with the Independent Counsel in Little Rock or do you
19 know?

20 THE WITNESS: I don't know.

21 MR. COLE: Were they FBI Little Rock office
22 FBI agents?

1 THE WITNESS: I don't know.

2 MR. COLE: Did they leave a local phone
3 number or did they call you long distance from
4 Washington?

5 THE WITNESS: They may have been local.

6 MR. GICALE: I have nothing further at this
7 point.

8 MR. GICALE: Off the record.

9 (Discussion off the record.)

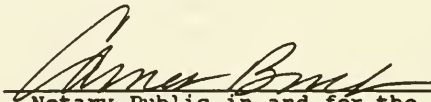
10 (Whereupon, at 3:08 p.m., the deposition
11 was concluded.)

12 -----
13
14 LEX A. DOBBINS
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

100

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

DEPONENT

Lee Robbins

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June 29, 1984

Mr. Bill Teer, R.S., Director
Division of Sanitarian Services
Arkansas Department of Health
4815 West Markham
Little Rock, AR 72201

Dear Bill:

I would like to take this opportunity to bring to your attention certain problems that have been encountered concerning the issuance of sewage disposal permits in Maple Creek Farms.

In my letter of February 21, 1984 to Mr. Jim McDougal, it was stressed that adequate and effective drainage be provided in conjunction with the review of sewage disposal applications in the poorly drained areas. Also, during our meeting of April 20, 1984 at Mr. McDougal's office, I presented results of an on-site evaluation conducted on April 13, 1984, of the existing septic tank systems located in the poorly drained areas. The on-site evaluation indicated that lots 4, 10, 203, J, L, P, O and CC were discharging sewage to the ground surface.

I have met on-site with Mr. McDougal's engineers, Mr. Bruce Watson and Mr. Bob Holloway, and they agreed that a detailed in-depth drainage plan would improve the operation of the individual sewage disposal systems in the poorly drained areas. I have also been informed by Mr. R. D. Randolph that the existing drive culverts in these areas will have to be reset after the drainage work has been done. I think it would be economically advantageous for the developer if the road ditches were at the proper depth prior to setting the driveway culverts, particularly since many of the culverts have not been installed.

Another area of concern is the construction of homes on lots that have not been evaluated for a suitable disposal site. In my letter of June 23, 1983 to Mr. McDougal, it was suggested that the sewage disposal permit be obtained prior to construction to allow for proper planning of the actual construction of the house plumbing the the sewage disposal system.

In addition, the clearing of lots with heavy equipment during wet soil conditions has caused undue compaction in areas where the absorption fields will be installed. The compaction of the soil will greatly diminish the ability of the absorption fields to function properly. Also, as a result of the clearing process, huge piles of trees and dirt are being left on the lots. The removal of these piles after the systems have been installed will destroy the absorption fields if removal of the trees requires driving heavy equipment over the absorp-

Letter, Mr. Bill Teer
June 29, 1984
Page Two

tion fields. I, therefore, suggest that these massive piles be removed prior to installation of the sewage disposal systems.

To further compound the problem of damaged soil, it has come to my attention that large pits used to bury debris from the commercial removal of trees have been constructed throughout the development, thus reducing the availability of suitable disposal sites.

I realize that Mr. McDougal's ultimate goal is to provide community sewerage to most of the areas in Maple Creek Farms. I think that community sewerage is the best possible solution to the problem of malfunctioning sewage disposal systems and he should be commended for taking such steps.

Also, random observations of the soil conditions on lots 304, 305, 310 and 333 indicate extensive soil mottling and poor drainage. These detrimental characteristics increase the potential for absorption field failures. I would, therefore, urge Mr. McDougal to consider incorporating the 300 series lots into the sewerage plan, especially considering the observations I have noted concerning some of these lots.

I would like to meet with Mr. McDougal and his engineers at their earliest convenience in order to devise a plan of development that will include an overall drainage plan and the phasing in of community sewage.

Very truly yours,



Lex Dobbins, R.S.
Saline County Sanitarian

LD:jc



SALINE COUNTY HEALTH UNIT

300 EAST McNEIL STREET

BENTON, ARKANSAS 72015

BENTON, ARKANSAS 72015

August 9, 1984

R. D. Randolph
Maple Creek FarmsBruce Watson ✓
Maple Creek FarmsWillie McIntyre
Maple Creek Farms

SUBJECT: Individual sewage disposal systems, Maple Creek Farms

Gentlemen:

On-site inspections of installed sewage disposal systems at Maple Creek Farms were conducted on August 3, 1984, with the following results:

SYSTEMS DEFICIENT IN CONSTRUCTION PERMIT REQUIREMENTS8-15 ✓ LOT D: Installation incomplete. Requirements: Extra fill over absorption field; straw cover; grass seed.LOT 11: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed.8-15 ✓ LOT 111: Installation incomplete. Requirements: 1' fill over absorption field. Additional recommendations: Straw cover; grass seed.8-15 ✓ LOT 207: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed (the fill and straw cover are inadequate on this lot).8-16 ✓ LOT 305: Installation incomplete. Requirements: 1' fill over absorption field. Additional recommendations: Straw cover; grass seed; improve drainage.8-14-84 ✓ LOT 316: Installation incomplete. Requirements: Extra fill over absorption field; straw cover; grass seed. Additional recommendations: Improve drainage.✓ LOT 333: Installation incomplete. Permit requirements: 1' fill over absorption field; straw cover; grass seed. Additional recommendations: Improve drainage.

8-15 F

8-15 SE

HOUSE

Systems Deficient in Construction Permit Requirements. cont'd.

LOT 635: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed.

5-15 LOT 641: Installation incomplete. Permit requirements: 1' fill over absorption field; straw cover; grass seed.

SYSTEMS WITH SEASONAL MALFUNCTIONS OBSERVED APRIL 13, 1984

LOT O: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT E: Recommendations: Straw cover; grass seed.

LOT 203: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT J: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed; septic tank "riser".

LOT P: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT L: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT CC: Recommendations: Straw cover; grass seed.

LOT 60: Recommendations: Straw cover; grass seed.

LOT 58: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT 4: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT 9: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

LOT 10: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.

OTHER SEPTIC TANK SYSTEMS

LOT 1: Recommendations: Improve drainage; extra fill over absorption field; straw cover; grass seed.

LOT 115: Recommendations: Extra fill over end of absorption field; straw cover; grass seed.

Other Septic Tank Systems, cont'd.LOT 107: Recommendations: Straw cover; grass seed.LOT 12: Recommendations: Straw cover; grass seed.LOT 312: Recommendations: Straw cover; grass seed.LOT 313: Recommendations: Straw cover; grass seed.LOT 309: Recommendations: Extra fill over absorption field; straw cover; grass seed.LOT 306: Recommendations: Improve drainage; extra fill over absorption field; straw cover; grass seed.

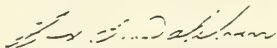
The purpose of this letter is to provide you with the necessary information regarding requirements and recommendations for the improved operation of individual sewage disposal systems which have been installed.

It is expected that all construction requirements indicated in this letter will be addressed as soon as possible.

This office will cooperate with Maple Creek Farms and the property owners concerning the additional construction recommendations also stated in this letter.

If you have any questions concerning this subject, please do not hesitate to contact my office.

Sincerely,



Lex Dobbins
Saline County Sanitarian

LD:jko

cc: Jim McDougal, President
Madison Financial Corporation
P.O. Box 1583
Little Rock, AR 72203

Bill Teer, Director
Division of Sanitarian Services
Arkansas Department of Health
4815 W. Markham
Little Rock, AR 72201

HOUSE

**DOBBINS EXHIBIT 3 WAS NOT PROVIDED
IN TIME FOR PUBLICATION**

**DEPOSITION OF MITCHELL F. STANLEY
IN RE: S. RES. 120**

MONDAY, DECEMBER 4, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MITCHELL F. STANLEY, called for examination pursuant to notice of deposition, at 2:08 p.m. in Room 628 of the Dirksen Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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1 PROCEEDINGS

2 Whereupon,

3 MITCHELL F. STANLEY

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. DINH:

8 Q Mr. Stanley, as you know, my name is Viet
9 Dinh. I'm with the majority staff of the Senate
10 Special Committee to investigate Whitewater
11 Development Corporation.12 This deposition is conducted pursuant to
13 Senate Resolution 120 which is that resolution which
14 establishes the special committee to be administered
15 by the Senate Banking Committee to conduct an
16 investigation into Whitewater Development
17 Corporation, Madison Guaranty Savings and Loan
18 Association, Capital Management Services and other
19 related matters.20 Section 1(b)(3)(e) of Resolution 120
21 authorizes an investigation and public hearings into
22 the sources of funding and the lending practices of

1 Capital Management Services, Incorporated, and its
2 supervision and regulation by the small business
3 administration including any alleged diversion of
4 funds to Whitewater Development Corporation; I
5 anticipate that to be the subject matter of today's
6 deposition.

7 This deposition is taken in advance of
8 public hearings which are being conducted right now.
9 The special committee has not determined who will be
10 among the witnesses at such hearings including
11 yourself, but you will be notified in advance if we
12 intend to call you at the public hearing.

13 The stenographer will prepare a record of
14 questions and answers. The deposition transcript
15 will be treated as committee confidential until the
16 commencement of hearing, at that time the record may
17 be made whole or a part public.

18 Prior to the hearings, if you were called
19 to testify, you will receive a letter from the
20 committee telling you that. You can -- you can be
21 provided with a copy of your deposition transcript
22 four days in advance of your testimony for the

1 limited purpose of preparing yourself for the
2 testimony at the public hearings.

3 Probably tomorrow or the next day, whenever
4 the transcript is available, we will send out a
5 letter to you telling you that you can come to the
6 Senate to review the transcript of your testimony
7 here today for the limited purpose again of making
8 any corrections in your testimony.

9 I should stress that those corrections
10 should be limited to the transcription errors and not
11 to any substance of your testimony. You may be
12 represented by counsel -- as I notice, you are not
13 represented here by counsel.

14 Objections as to the form of the questions
15 will be noted for the record. If you have any
16 questions about the phrasing of questions, please say
17 so.

18 There are two grounds upon which you may
19 refuse to answer, that is, that a particular question
20 is beyond the scope of the committee's jurisdiction
21 under Senate Resolution 120 or that your answer would
22 violate a privilege of some sort. Ultimately the

1 committee chairman will rule on objections when you
2 refuse to answer a question.

3 Can you state your full name for the
4 record, please?

5 A My name is Mitchell F. Stanley.

6 Q Can you give me your business address?

7 A It is 655-15th Street, Northwest,
8 Suite 300, Washington, D.C. 20005.

9

10

11 Q Can you give me your business
12 phone numbers?

13 A Business phone number is 202-639-4004.

14

15 Q From the time you've had the notice of this
16 deposition through a telephone call from me to you,
17 have you had any conversations with anybody other
18 than your attorneys and your family members about the
19 substance or subject matter that you've been asked to
20 testify about?

21 A No.

22 Q Have you been interviewed or questioned

1 under oath by my investigative agency or any
2 individual about the substance of your testimony here
3 about the subject matter about which you are about to
4 testify?

5 A No. Let me rephrase my earlier answer, I
6 did get a call from Mark Stevens at the SBA inquiring
7 as to whether I -- pursuant to a letter that they
8 received for documents, and again this was when I was
9 in Texas --

10 Q Right.

11 A -- whether or not there were any documents
12 in my possession from that time, and as I mentioned
13 to you, I've retained no documents from that time.

14 Q Okay. Now, you also -- you also received a
15 letter from the special committee --

16 A Yes.

17 Q -- from Senator D'Amato requesting all
18 relevant documents?

19 A Yes, which I got -- which I got in my
20 office this morning.

21 Q Right. And you told me over the phone that
22 you took no documents with you?

1 A Yes. I don't have any documents from that
2 time relating to anything pertinent to this inquiry.

3 Q Right. Just to close out our records, I
4 would request that you respond to that letter in
5 writing to the chairman --

6 A Sure, okay, I'll do that.

7 Q -- with respect to that, with the
8 representation that you have no such records.

9 A Okay.

10 Q Who do you currently work for?

11 A I work for the Associates Commercial
12 Corporation.

13 Q What is your position there?

14 A Vice president, small business financing.

15 Q And that is a private business?

16 A Yes, it's part of Ford Motor Company's
17 Financial Services Group.

18 Q How long have you been at your present
19 position there?

20 A Since October of '94.

21 Q And where were you prior to October 1994?

22 A Before that until the time I was employed

1 by the SBA, I ran my own financial services
2 consulting practice and company.

3 Q What is the name of that company?

4 A Mercentile Financial Services.

5 Q Is it still an ongoing business entity?

6 A It is. It's still operating, although, it
7 is dormant.

8 Q Okay. You mentioned that you had worked
9 here at the SBA prior to your work at the -- or your
10 own financial services company?

11 A Right.

12 Q When did you leave the SBA?

13 A I left the SBA in January 22nd, 1993.

14 Q And what was your position at the time you
15 left?

16 A Associate deputy administrator for finance,
17 investment and procurement.

18 Q Acronym for which is FIB?

19 A FIB, ADA/FIB.

20 Q Was that your position at the SBA at all
21 times prior to your departure?

22 A Yes.

1 Q When did you start at the SBA?

2 A January of 1990, January the 2nd, in fact,
3 1990.

4 Q And just to give us a brief history of your
5 employment and experience prior to 1990, prior to
6 your coming to SBA, can you take a few moments just
7 to recount your history since college and grad
8 school?

9 A Sure. From 1987 -- well, let me start,
10 it's much easier if I start in reverse order,
11 otherwise it becomes confused.

12 Q However best you can do it.

13 A I graduated from Georgetown University
14 Foreign Service School, went into the State
15 Department and served as an analyst in the economic
16 bureau, foreign services reserve officer, and stayed
17 there from 1977 until 1979 and left that and started
18 working on the Reagan for President Campaign, worked
19 there, on the campaign during the transition and was
20 special assistant to the counsel to the president at
21 the White House from 1981 to October of '83.

22 From October of '83 to roughly October of

10

1 '85, I worked in the international trade
2 administration, the Commerce Department.

3 Q What was your position there with the
4 international trade?

5 A Financial trade administration, I was an
6 assistant to the assistant secretary. I was then
7 tapped to go upstairs to the secretary's office. I
8 was senior assistant to the secretary of commerce
9 from '85, '87. When he died in '87, I became
10 assistant executive director of the Federal Savings
11 and Loan Insurance Corporation.

12 I was head -- assistant executive director
13 of the FSLIC from November of '87 till early '89 when
14 I left pending a position as assistant secretary at
15 the Commerce Department which did not come through
16 and -- so then I was looking around for another job
17 and was tapped to go over to SBA.

18 Q Let me direct your attention to the time
19 period after the November elections of 1992.

20 A Um-hum.

21 Q Your position at the time as associate
22 deputy administrator was a political position?

1 A Yes, um-hum.

2 Q And November of 1992 signaled a change of
3 administration?

4 A It sure did.

5 Q And so were you involved at that point in
6 preparing for the transition into the new
7 administration?

8 A We were under instructions to -- to assist
9 in a smooth transition.

10 Q Instructions of who?

11 A The president, broadly, I mean, they didn't
12 call me and say, Mitch, help them out, but I mean as
13 broadly, and those are words -- instructions we got
14 from our own administrator Pat Sikey at the time and
15 we endeavored to do that, such as briefing papers
16 were requested or inquiries were made by the
17 transition team or requests for information,
18 generally those were channeled through the front
19 office though.

20 Q So specific inquiries were made to the SBA?

21 A Very much so.

22 Q And generally briefing papers on the

1 program that --

2 A What they were, new developments. We had
3 taken an enormous amount of heat in '92 in which the
4 programs were disparaged and criticized extremely
5 intensively for being political, that they were being
6 manipulated by the Republican administration to the
7 benefit of President Bush's reelection.

8 So after that stinging rebuke, we -- you
9 know, we basically thought that there would be a lot
10 of interest in these programs, so we, you know,
11 were -- we had a lot of papers in the can. We
12 were -- we generated a lot of briefing papers, you
13 know, readily available.

14 Q In addition to those specifically requested
15 by the transition team?

16 A Well, we didn't generate papers. It's hard
17 to get SBA to do anything that is not at gun -- you
18 know, virtually at gun point. So I mean there's not
19 a lot of intellectual curiosity at SBA. So unless
20 you have a specific request, it's very hard to
21 generate momentum to get them to do anything.

22 Q Right, right. So in answer to my question,

1 these were specific briefing papers that were
2 requested by the transition team?

3 A It's my recollection.

4 Q Okay. Was there any validity to the public
5 charges against the SBA during the 1992 campaign?

6 A It was a political -- it was a political
7 rhetoric, that's all it was. We took an extremely
8 serious situation, attempted to ameliorate it and, as
9 such, provided the SBA its first opportunity to
10 demonstrate in a positive sense what it could do, and
11 for that, we were criticized roundly.

12 Q Let me direct your attention to the period
13 right after the election and specifically to the
14 request for briefing papers and specific inquiries
15 from the transition team.

16 When was the first of those requests that
17 you are aware of?

18 A I don't recall specific dates or times. It
19 seems to me that, you know, coincidental with this
20 was the whole issue of new direction for SBA, chances
21 are great opportunity for the agency to, you know,
22 have now somebody who, you know, would -- would

1 welcome it with open arms.

2 And, you know, there was a certain level of
3 enthusiasm that finally the message that we had been
4 trying so inadequately to convey might be listened
5 to.

6 Q And I mean enthusiasm within the agency
7 itself?

8 A Oh, in certain sectors, yes, of the agency.

9 Q Okay. Now, you said you don't remember
10 specific times or dates, but can you give us an idea,
11 was it within a month of the election?

12 A It seems to me that there was quite a bit
13 of interest, I'd say between Christmas -- in between
14 Thanksgiving and Christmas, that period of time.

15 Q Right. And, of course, you left in January
16 22nd of 1993?

17 A Right.

18 Q And since then, you had no other contact
19 with the -- well, you had no official position with
20 the SBA?

21 A No. Right, I was --

22 Q Okay. So we're talking about a three-month

1 period between the election --

2 A Right.

3 Q -- and the -- and January? Was this the
4 primary focus of your work at the time at the SBA was
5 preparing for the transition, or were you still
6 continuing on your official responsibilities and
7 duties?

8 A Well, we still were attempting to finish up
9 the work that had not been, you know, stopped, and we
10 attempted to, you know, sort of wrap things up, but
11 things were at a very -- basically the bureaucracy
12 shut down --

13 Q Okay.

14 A -- and they weren't listening to me, and
15 frankly, you know, it -- let's put it this way, the
16 traditional attitude takes over, you know, throw out
17 the old, you know, kiss up to the new, that type of
18 thing. I mean I don't mean -- don't put kiss up,
19 that's not appropriate, but, you know.

20 Q So were you fairly successful in your
21 efforts in order to get the briefing papers and the
22 inquiries answered with respect to the inquiries by

1 the transition team?

2 A Pretty much so.

3 Q Okay. There was no effort to resist that
4 provision of information in any way?

5 A No.

6 Q And approximately -- just to get an idea as
7 to the volume of interest that was generated by the
8 transition team, did you get one general inquiry as
9 to the description of the program? Did you get
10 specific inquiries? Did you get a number of them?
11 Can you describe the volume and substance of the
12 inquiries?

13 A We had a lot of different inquiries because
14 a lot of the areas, my job was basically in charge of
15 all of the credit and functional programs of the
16 agency and, as such, you had the minority
17 contracting.

18 You had the finance program, the 7A loan
19 program, which is really the biggest credit program
20 at SBA. You have the SBIC program, the surety bond
21 program. You have a whole lot of others, plus the
22 disaster loan program. So there was a lot of, you

1 know, interest in each of the program areas by
2 perhaps different constituencies.

3 Q Within the transition team. So you
4 received a number of inquiries from different people
5 in the transition team?

6 A No, I never received any inquiries. I
7 would say specifically that I'm on the transition
8 team, call me up. We did have interviews with the
9 transition team --

10 Q Okay.

11 A -- but any requests for documentation
12 generally came to us via either our own
13 administration or the contacts that the hill at that
14 time had with the people in the agency. They
15 basically bypassed us and got whatever information
16 they wanted directly from the source.

17 Q Right. So you were not the point -- you,
18 yourself, personally --

19 A No.

20 Q -- there was no point of contact for the
21 transition team members --

22 A No.

1 Q -- in order to direct any specific --

2 A No.

3 Q -- requests or inquiries?

4 A They would not have picked me anyway.

5 Q And you said that these came from either
6 your own administration or you mentioned earlier the
7 front office, would these be sent -- what do you mean
8 by front office?

9 A I'm sorry at the administrator's office.

10 Q The administrator's office.

11 A But they really weren't, you know -- I
12 don't recall us having a daily meeting in which the
13 transition paper -- team, you know, wants papers on
14 this, this, this and this.

15 Q Right.

16 A There were as a normal process of
17 transition, the line, the agency produces papers and
18 documents on each program.

19 Q Right.

20 A I'm sure if you look back on them, they're
21 probably similar to the ones produced in previous
22 administrations for the incoming. You know, it's

1 sort of a standard drill now.

2 Q As a standard briefing paper for particular
3 programs?

4 A Right.

5 Q Let me direct your attention to a specific
6 program. You mentioned the SBIC program --

7 A Yes.

8 Q -- is the SSBIC program also considered
9 under that umbrella?

10 A Yes, that's a subset of the SBIC program.

11 Q And the SBIC program being the small
12 business investment company program?

13 A Yes.

14 Q You were in charge of that program in your
15 position?

16 A I was responsible for it; the day-to-day
17 management of it was Wayne Foren.

18 Q What was his title at the time?

19 A It was associate administrator for
20 investment.

21 Q Did you receive any inquiries or requests
22 for briefing papers with respect to the SBIC program?

20

1 A It seems to me that we -- there was some
2 cause to generate papers about the SBIC program,
3 specifically, you know, when and on what, you know,
4 what circumstances, I can't remember, and I don't
5 really recall.

6 Q But some papers were generated?

7 A Right.

8 Q Do you recall what these papers were?

9 A At that time we would not -- I don't know
10 that they would have shared specific company data,
11 but I think there was a lot in the realm of, you
12 know, with a revitalized program.

13 You must recall that in 1992, we had just
14 come off of a year and a half long, in my case,
15 almost 2-1/2 year, struggle to get this program up
16 from being dead.

17 Q Right. "This program" being the
18 SBIC program?

19 A The SBIC program. We had legislation that
20 resulted in the 1992 legislation which President Bush
21 signed, so there was a lot of enthusiasm. I wouldn't
22 call it euphoria, but enthusiasm that the program

1 might now finally be able to be seen in the context
2 of what it could do as constantly in the context of
3 its disparaged past of what it was, you know, playing
4 down to, so that was the kind of theme or at least,
5 you know, that was our impression of what the papers
6 were focused on or the interest was focused on.

7 Q So was there a lot of interest being
8 generated by the SBIC program at the time?

9 A I would say there was -- there was a good
10 deal of interest.

11 Q More so then under the program under your
12 supervision?

13 A With the exception of the 7A loan program.

14 Q Right. And --

15 A And the disaster program, which, of course,
16 is an ongoing hot potato for whoever happens to be
17 there, you know, how do you --

18 Q With respect to the specific papers
19 that -- that your administration, that is, the SBA
20 generated --

21 A Right.

22 Q -- for the SBIC program for transition

22

1 period, can you recall what they were? Were they
2 briefing papers on the general program? Were they
3 more specific inquiry responses?

4 A As I recall, they were general briefing
5 papers. There may have been, and I'd be speculating
6 now if I said what was, you know, to the extent to
7 which they were out of the ordinary, but if there
8 were anything, they may very well have been papers
9 related to what the programs could do given the
10 context of the new security that we had developed.

11 Q So future directions for the program?

12 A Yeah, right, right.

13 Q Still more general information --

14 A Yeah.

15 Q -- in a programmatic level?

16 A Sure.

17 Q Did you have any specific requests with
18 respect to information regarding the SBIC program in
19 Arkansas?

20 A Not that I can recall.

21 Q Do you recall any briefing paper responses
22 to inquiries or any other type of work product that

1 the SBA generated with respect specifically to the
2 SBIC program in Arkansas?

3 A Not that I can recall. I was aware, of
4 course, that we had this matter with Hale going on.

5 Q Right.

6 A But the one thing that I think would tend
7 to -- I mean these would not be questions necessarily
8 coming to me; whether they came through -- SBA
9 operates on two different levels, it operates on the
10 normal rationale level, and then on the sort of the
11 relationship between staffers on the hill and
12 staffers down at the agency and whatnot.

13 And, you know, in the bureaucracy, there
14 are both the supporters of whatever kind of political
15 persuasion you may happen to have at any particular
16 time, so chances are these questions would not have
17 come to me if they were of a specific -- what would
18 be deemed as sensitive political nature.

19 Q Right. But you don't recall any specific
20 inquiries or responses with respect to SBIC programs
21 in Arkansas itself?

22 A Specifically on Arkansas, no. There may

24

1 have been Arkansas and other states blended in there,
2 but I don't really remember anything specifically
3 about Arkansas.

4 Q Okay. Do you have -- were there regional
5 inquiries about the SBIC program? Were there
6 responses -- were there, you know, inquiries with
7 respect to the effectiveness of the SBIC program in
8 different regions not necessarily states?

9 A You know, I can't really recall what
10 specifics there were, but we used to slice and dice
11 this information in a lot of different ways. So
12 it's -- you know, it's possible there were various
13 different purutations of information.

14 Q Right. Do you know the extent of the SBIC
15 program in Arkansas, at the time do you know how many
16 SBIC or SSBICs there were in the states?

17 A No. Arkansas was not, you know, our -- was
18 not a -- other than the fact that I mean the minute
19 you had mentioned Arkansas, it would bring up, it
20 would hit certain buttons in '92 and '93, but we
21 didn't have any -- I don't recall anything
22 specifically. My time was consumed more than

1 anything else at this point in time with the 7A loan
2 program.

3 Q Right. Right. Now, you mentioned earlier
4 that you became aware of the -- you were aware at the
5 time of the David Hale matter.

6 How did you come to have such awareness or
7 knowledge?

8 A Well, I think if I recall correctly, Wayne
9 mentioning on a couple of different occasions that,
10 you know, we had Judge Hale, who was or -- I guess
11 Hale who was, you know, not loath to make his
12 connections known and -- but then, you know, there
13 were a lot of people who would at that time claim a
14 lot of association with the incoming -- what they
15 thought was the incoming administration or that at
16 that point the incoming administration to attempt to
17 gain, you know, various benefits.

18 Q Right, right. Were you aware at that time
19 of any ongoing allegations of fraud against Mr. Hale
20 or any doubts that -- that Mr. Foren may have had
21 with respect to the veracity of Mr. Hale's
22 application?

1 A Well, I think -- I think there was a
2 feeling based upon, and again I wasn't this close to
3 the actual day-to-day relations between what Wayne
4 was doing and any referrals he was making to the
5 Inspector General's office or that type of thing --

6 Q Right.

7 A -- and --

8 Q But he kept you generally apprised of his
9 doubts and concerns about the Hale matter?

10 A I think -- generally. I don't think, you
11 know, this was not a Number 1 question on his mind,
12 because there were a number -- and I don't mean to
13 single Hale out as the only malefactor or alleged
14 malefactor. I don't know where he is now in this,
15 but the --

16 MR. IVEY: You're safe.

17 THE WITNESS: He's an alleged malefactor.

18 MR. DINH: He's pled guilty.

19 THE WITNESS: A confirmed malefactor. We
20 had a number of malefactors in the programs in
21 various stages of kind of bubbling up at any one
22 time, and so we -- I asked Wayne to keep me aware of

1 it but to use his own judgment and common sense to go
2 ahead, and if they needed to be dealt with, go ahead
3 and take the steps, go ahead and deal with them.

4 BY MR. DINH:

5 Q You said that Judge Hale was not -- I think
6 this is a direct quote -- loath to make his political
7 connections known, what did you mean by that?

8 A Well, if I recall correctly, and, again,
9 my -- again, this has not been one of the key points
10 of my life in the last couple of years, but from what
11 I can recall at that time, Judge Hale was someone
12 who -- we found and maybe this is an archetype, that
13 as people began to descend slowly into the problem
14 areas of the SBICs and SSBICs, they would reach out
15 and try to grab other people and, you know, try to
16 save themselves by reaching out to whatever political
17 straws they might have or opportunities and, as such,
18 they -- you know, I recall Wayne, you know,
19 mentioning that this guy is really, he didn't mention
20 anything specifically like he's threatened to call
21 somebody or X, Y, or Z, but he did mention that he
22 was, there was a lot of blustering going on, I think

1 that was Wayne's term.

2 Q Right. But there were -- Wayne did not
3 mention any specifics as far as the specific bolt or
4 allegations that Hale was making?

5 A Well, I don't think he needed to really
6 spell them out. I mean I could fill in -- sort of
7 fill in the blanks on those. And -- but, you know,
8 to be honest about it, after the election in
9 November, I mean that was not a key concern of mine.

10 Q You mentioned earlier that the -- you were
11 not the point person for the transition team to make
12 inquiries with respect to specific programs or even
13 request for briefing papers.

14 Did you receive any requests for briefings
15 or specific inquiries from the transition team from
16 any member of the transition organization?

17 A Well, I mean I was asked to give an
18 interview to two persons. This guy Jonathan Silver,
19 it might have been Silber, but I think it was Silver,
20 he was the guy who interviewed me. He later went on
21 I think to the Commerce Department something.

22 Q And you mentioned two persons.

1 A There was somebody else, but I can't
2 remember who that was.

3 Q Other than -- other than this specific
4 interview with two members of the transition team,
5 did you have any other contact with anybody else at
6 the transition organization?

7 A You know, not that I recall.

8 Q Did you receive any phone calls from the
9 transition organization?

10 A Not that I can remember.

11 Q All right.

12 A But at the time, there were a lot of people
13 purporting to represent other people and doing -- you
14 know, as is natural, variety of requests coming in
15 from all over, and after a while, it becomes sort of
16 automatic requests come in and they're farmed out and
17 papers generated.

18 Q But the requests that came to you
19 personally, did these requests come from another
20 person within the SBA, or were they requests made to
21 you directly by a person not within the SBA?

22 A I don't think they would have come from

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1 someone outside the SBA, but probably someone inside
2 the SBA, you know, the hierarchy there who was
3 liaising with the transition team.

4 Q Right. And there were persons who would,
5 according to your earlier testimony, be coming out of
6 the administrator's office?

7 A It's convenient, I mean I don't really
8 remember who that was.

9 Q Were any letters addressed to you
10 personally from the transition organization
11 requesting specific information?

12 A No, I just got one letter.

13 Q And that was?

14 A Terminating me.

15 Q In January of 1993?

16 A Yes.

17 Q Did you -- during this time period after
18 November of 1992 and before your termination in
19 January of 1993, did you have occasion to see any
20 written requests or inquiries from the transition
21 organization request for information something like
22 that?

1 A No. It's my recollection that people in
2 the transition -- I don't want to say people in the
3 transition, but people were going direct to the -- to
4 the line, not coming through me.

5 Q Right. During this period, again between
6 November and January, November 1992 and January of
7 1993, did you have any contacts whether they be
8 direct or indirect with George Stephanopoulos of the
9 transition organization?

10 A Well, I don't recall him calling me
11 directly.

12 Q Okay. Were any inquiries from George
13 Stephanopoulos directed to you through another
14 intermediary at the SBA?

15 A It seems to me we prepared something that
16 had, you know, this is going to Stephanopoulos, and
17 since that was one of the only names that was readily
18 identifiable with the incoming administration,
19 it -- you know, it became a tag line. And I think
20 that's my reference that Ned mentioned the other
21 day.

22 Q Stephanopoulos at the time was a senior

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1 advisor to the President-elect?

2 A Yeah, I believe -- I believe that was the
3 case. I mean he would have been -- I don't recall
4 specifically whether he had been press secretary, but
5 he was very high up there and really one of the only
6 identifiable people close to the President whose name
7 was generally well-known.

8 Q Right. And it was well-known to you?

9 A I knew who he was, yeah.

10 Q And was it generally well-known within the
11 SBA who he was?

12 A Oh, yeah.

13 Q And it's a rather distinctive name?

14 A It is.

15 Q Do you know what exactly it was that you
16 prepared this work product that you testified was
17 identified as going to Stephanopoulos?

18 A I don't recall offhand.

19 Q Did it have to do with the SBIC program?

20 A I'd be speculating as to what exactly it
21 was about, but I mean it would be more likely to be
22 that than the surety bond program, let's put it that

1 way.

2 Q Okay. Why did you say that?

3 A Well, this was a high profile program that
4 got a lot of attention and more than anything else
5 was widely characterized by both the, you know,
6 people in the -- the people in the SBIC industry very
7 tightly connected with the, you know, new
8 administration, a lot of them served on their
9 committees and whatnot.

10 And there was a real feeling that the SBIC
11 program was going to be the basis upon which they
12 would have their community bank model, at least that
13 was what we were wishfully thinking would happen.

14 Q "They" being the new administration?

15 A Yes.

16 Q Okay.

17 A And since, you know, it was known that I
18 believe that there were some close understanding -- I
19 mean, our view was that, you know, Clinton had been
20 governor of Arkansas in Arkansas, you're lending
21 opportunities are fairly few. You know, it's not a
22 massive magnet for capital in Arkansas, so,

1 consequently, any of the SBA programs would have
2 helped a lot.

3 So we probably inferred, perhaps wishfully
4 thinking that he would be well aware of these from a
5 general context. We had no specifics to base that
6 on.

7 Q You mentioned that members of the
8 perspective administration had a familiarity with
9 SBIC program. Can you explain that? Were
10 there -- were there specific --

11 A More from -- I would describe that as more
12 from kind of an intellectual sense as an alternative
13 lending vehicle than traditional banks. I mean there
14 was a lot of debate back in those times about either
15 the banking system being unresponsive to lenders -- I
16 mean to borrowers at various levels, and this was
17 tied up with the whole community, reinvestment act
18 debate and a variety of other things. So as a
19 nontraditional financing vehicle, the SBIC program
20 was one of the only ones out there.

21 Q But to your knowledge, nobody in the
22 perspective administration or in the transition team

1 had any specific working knowledge of the SBIC
2 program at a ground level beyond an intellectual
3 level?

4 A I would say.

5 Q So most of it is a policy-based interest?

6 A Yes, I would say it's a focus.

7 Q Okay. Do you recall the form of the
8 response that went to or allegedly went to

9 Mr. Stephanopoulos?

10 A I don't.

11 Q Was it a briefing paper?

12 A I don't recall.

13 Q Was it a letter?

14 A Chances are it would have been a short
15 briefing paper or a briefing document of some sort.
16 Either -- its form would probably have taken a memo
17 context form rather than a letter form, because if it
18 would had been a letter, someone would have had to
19 sign it.

20 And it wasn't -- I wasn't going to sign it,
21 and the administrator wasn't going to sign it, and
22 Wayne Foren wasn't going to sign it and Ned wasn't

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1 going to sign it. So, consequently, we would have
2 flipped back to the white paper format or the, you
3 know, white paper format or memo format.

4 Q So that covers the end product, that the --

5 A Right.

6 Q -- that came out? Do you recall what
7 prompted the product to -- that allegedly went to
8 Stephanopoulos was an inquiry from
9 Mr. Stephanopoulos?

10 A As I mentioned before, there was some
11 reason to generate this paper.

12 Q Do you recall what that reason was?

13 A And I recall that there was some view that,
14 again, Stephanopoulos was a name that -- I seem to
15 recall that it was for that purpose, but, again, as
16 being senior policy adviser, this being a policy
17 memorandum, I mean going forward that that would not
18 have been appeared out of the ordinary, whoever it
19 was that was maybe invoking his name, but I don't
20 recall him calling me directly.

21 Q Do you know who it was that invoked
22 Mr. Stephanopoulos' name?

1 A I do not.

2 Q And you said you don't recall who the
3 liaison was at the SBA at the time for --

4 A I don't. There was so many different
5 people running around purporting to be, you know,
6 odds on favor to be the new somebody or another and,
7 you know, I couldn't have cared less frankly.

8 I mean a lot of people, all these people
9 were so gleeful to have the Republicans out and the
10 new administration in that there was a certain
11 giddiness as to, you know, everyone running around,
12 you know, masquerading, you know, as whoever.

13 Q But you, yourself --

14 A No.

15 Q -- did not receive a phone call from
16 Mr. Stephanopoulos?

17 A No.

18 Q Did you take any part in the preparation of
19 the response to this inquiry?

20 A No. This is stuff that we had been talking
21 about almost nonstop for two and a half years. This
22 is stuff that I testified to before Dale Bumper's

1 committee probably five or six times, the company,
2 the administrator three or four times.

3 This was stuff that was so redundant for us
4 anyway, I mean we knew where we wanted to take the
5 program and kind of our great ideas of what could
6 happen to it, so it was common knowledge what my
7 views on the program were.

8 Q Stuff being your views and description of
9 the SBIC program?

10 A And what it could possibly be utilized to
11 do in a positive way, yeah.

12 Q And some of those included the community
13 bank --

14 A Yeah.

15 Q -- community development bank?

16 A We believed and even being outside of the
17 SBA in the late part '93, I was kind of shocked that
18 the community development bank idea never utilized
19 the SBIC program, because it would be perfectly sort
20 of in my view tailored for that.

21 Q Were -- were you -- but you did not take
22 any active part in the preparation of the response?

1 A No.

2 Q Do you know who did?

3 A That would have been done on Wayne's shop
4 and --

5 Q Did you direct Mr. Foren to do this -- my
6 question is, was the request made through you to
7 Mr. Foren to prepare this paper?

8 A Now, Wayne and Ned has said, I guess, you
9 know, I came in one day and, you know, told them this
10 was for Stephanopoulos, go ahead and pull together X,
11 Y, and Z, and I think I mentioned, you know, I don't
12 specifically recall telling them that, and generally
13 I kind of try to downplay the fact -- I mean this
14 was -- we were under instructions to maintain an
15 orderly transition and to assist the incoming
16 administration in whatever way possible for that.

17 My goal in perhaps making it saying
18 Stephanopoulos, one, someone -- something would have
19 triggered me to say that, you know, you know, I mean,
20 so maybe along the lines of, you know, 'wanting to
21 make sure we got our numbers to add up right so we
22 couldn't cause any further embarrassment to the

1 agency.

2 Q But you don't recall what the something
3 was?

4 A No.

5 Q You don't recall who it may have come from?

6 A No, I do not.

7 Q Well, let me -- you refer to
8 Mr. Shepardson's testimony. Just for the sake of
9 clarity, let me just read you a portion of that
10 testimony --

11 A Sure.

12 Q -- at the public hearings before the
13 special committee last week. And I'm reading from
14 the transcript of public hearings on Tuesday,
15 November 28th, 1995 before the special committee to
16 investigate Whitewater Development Corporation at
17 page 46, line 6, "during the period of time between
18 November and the inauguration when the administration
19 was in the process of transitioning, and again I'm
20 going on hearsay information, but one of the staff
21 people from the transition team, as I recall, it was
22 Mr. Stephanopoulos contacted the former associate

1 deputy administrator, it was Mr. Mitchell Stanley who
2 was Wayne's immediate superior and explained to
3 Mr. Stanley that they were aware of this program and
4 thought that this program was very beneficial and had
5 been beneficial I believe in Arkansas and asked
6 several questions about Mr. Foren and his management
7 capabilities and so on."

8 Do you remember talking to Mr. Foren
9 specifically about this request?

10 A Not in that level of detail.

11 Q Okay. So Mr. Shepardson was mistaken here
12 when he says that it was Mr. Stephanopoulos who
13 contacted you directly?

14 A I think that is true. I think it was an
15 overeagerness, that was -- as I said, one of the only
16 names -- I mean, that or Hillary or Bill or, you
17 know, something like that. But, you know, I
18 understand when a guy like that would call me and I
19 sure wouldn't, you know, go down and just disseminate
20 that broadly.

21 Q Right.

22 A I would have remembered if he had called

1 me.

2 Q Right. But you don't remember who invoked
3 his name in turn?

4 A Right, I don't.

5 Q Do you remember any inquiries about
6 Mr. Foren himself and his management of the SBIC
7 program?

8 A Not at that point.

9 Q Okay. Do you recall any subsequent
10 inquiries about his management of the program?

11 A Well, it was a -- to be honest, this was a
12 longstanding -- there would be a general inquiry
13 of -- about his management style.

14 Q A longstanding inquiry from whom?

15 A Well, I mean a long -- from the agency
16 itself --

17 Q Okay.

18 A -- related to issues that happened in '92
19 related to, you know -- he was told to do the near
20 impossible to push this legislation through in one
21 year.

22 Q Right. The legislation for the SBIC

1 program?

2 A In 1992.

3 Q Okay.

4 A This would have taken anyone in the
5 bureaucracy four or five years to get it done, he did
6 it in one year.

7 Q And he was successful?

8 A He stepped on a lot of toes in the process,
9 but he was following the administration's directive
10 to get it done. So he did a lot of things that were,
11 you know, ultimately not inured to his best interest.

12 Q Within the bureaucracy itself?

13 A Yeah.

14 Q But aside from these general internal --

15 A Sure.

16 Q -- doubts about his management style
17 generated by his conducts of the legislation push,
18 were there any external inquiries regarding his
19 management capabilities?

20 A No one asked me specifically except in the
21 context of a general review of the program areas,
22 such as in my interview with the transition team, you

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1 know, about management in each of the areas.

2 Q Were there specific questions during the
3 interview about management of the SBIC program?

4 A Yeah, I recall that --

5 Q Okay.

6 A -- in each of the programs areas.

7 Q In each of the programs including the SBIC
8 program?

9 A Yes.

10 Q SBIC was not separated out for questioning?

11 A No.

12 Q Was the questioning unusual in any respect
13 with respect to SBIC program that you can recall?

14 A Not really.

15 Q Was there a particular interest in the SBIC
16 interest that you can recall similar to the interest
17 for request for information that you had alluded to
18 earlier?

19 A Nothing specific that I recall that
20 immediately I recognize as being different.

21 Q As opposed to just a general programmatic
22 level?

1 A Right. There's always an assessment of
2 managers, if you had the best of all possible worlds,
3 you know, how would you do this different or give us
4 a guideline about what we do differently, you know,
5 that type of thing.

6 Q Did Mr. Foren's name specifically come up
7 during the interview?

8 A Yeah. Insofar as it came up in every
9 other -- you know, my assessment or my kind of
10 knowledge and my working relationship with him.

11 Q And your specific responses?

12 A Yeah, right.

13 Q The transition team members did not ask
14 specifically about Mr. Foren?

15 A They did not ask me, for example, why did
16 Wayne do this or that or isn't Wayne X, Y, or Z. I
17 mean they didn't know, I don't think they knew
18 Wayne.

19 Q Right. It was only in response to your own
20 responses that --

21 A Right.

22 Q -- that they knew who Mr. Foren was? What

1 is your estimation of Mr. Foren's management
2 abilities? What was your response to the interview
3 team?

4 A I think he did the near impossible, and
5 frankly, he -- you know, he paid the price for it.

6 Q He was subsequently reassigned in 1993?

7 A Yeah, and cashiered later.

8 Q Other than at the interview, were there any
9 other inquiries written or telephonic or oral that
10 you can recall regarding the management of the SBIC
11 program?

12 A No, I cannot remember specifically any
13 inquiry or specifically written that would
14 particularize itself down on any specific SBIC or
15 SSBIC.

16 Q Or any specific managers of those programs?

17 A Right.

18 Q Were there any specific questions or
19 inquiries about Capital Management Services and David
20 Hale, in particular, by the transition team?

21 A Not that I remember.

22 Q Did you provide any briefing to the

1 transition team irrespective of any specific
2 inquiries about Capital Management or David Hale?

3 A No, not that I recall.

4 Q Do you know of anybody who at the SBA did
5 during this period December and January 1993?

6 A I can only speak for myself, because I
7 mentioned before and tried to frame the picture,
8 there were people running all over the place trotting
9 out credentials from the Carter Administration, you
10 know, and the whole -- you know, a lot of people
11 coming forward with information, you know, and that
12 type of thing.

13 It normally happens during transitions, it
14 just depends on who's coming in and who's going out
15 that affects that one way or the other.

16 Q But to the best of your knowledge, there
17 was no specific mention of Capital Management or
18 David Hale during this period?

19 A Not that I remember.

20 Q Okay. You left the SBA in January of
21 1994 -- 1993?

22 A Right.

1 Q Do you keep in contact with, either on a
2 personal or a professional level with the -- your
3 former colleagues there?

4 A I sure do.

5 Q Do you keep in contact with Wayne Foren and
6 Ned Shepardson?

7 A Not Ned, I see Ned occasionally, when Wayne
8 was -- went through this process --

9 Q This process being the October 1993
10 reassignment?

11 A Yeah, and events leading up to it.

12 Q Okay.

13 A And subsequent to his being cashiered from
14 the SBA, the, you know, I -- I have talked to him on
15 numerous occasions. I have talked to him and tried
16 to, you know, help him in whatever way I can, because
17 this is a guy who was for 32 years or something in
18 the SBA and, you know, he was then on the -- after a
19 period of time in this limbo, then went on the
20 street. And I tried to help him in whatever way I
21 could --

22 Q Right.

1 A -- more as a friend rather than as, you
2 know, a colleague. I certainly wasn't in any
3 position to help in 1993 or '94.

4 Q But you were his direct supervisor while
5 you were at the SBA?

6 A I was. I was.

7 Q Did he mention to you any specifics of any
8 briefings he may have had with Erskin Bowles
9 regarding Capital Management and David Hale?

10 A He had mentioned on several occasions that
11 there had been, you know, that he had had these
12 briefings with Erskin Bowles, and my recollection at
13 the time was that Bowles told him go ahead and, you
14 know, let the chips fall where they may.

15 Q Right, right. And his -- and Mr. Foren's
16 reason for telling you this was simply because it was
17 a case that you were interested or you had -- you
18 were aware of at the time that you left the SBA?

19 A Well, there's a certain period when people
20 are trying to figure out what they did wrong, why
21 they are in the position they're in now, sort of a
22 little bit of a, you know, therapy.

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1 Q Oh, so these discussions were during the
2 period of his reassignment?

3 A These were subsequent to him leaving the
4 agency.

5 Q Oh, okay.

6 A I did not talk to him for a year after I
7 left the agency.

8 Q Okay. So you only talked to him the
9 beginning of January 1994?

10 A When he was kicked -- when he was put out
11 on the street, yeah.

12 Q Right, okay. And as part of this therapy
13 process, as you put it, he was replaying a videotape
14 with respect to the briefings and the contacts?

15 A Right.

16 Q And that's the only context in which you
17 had talked to Mr. Foren with respect to these
18 briefings?

19 A Yes. And I don't want therapy to be seen
20 as its wrong light either.

21 Q Oh, no.

22 A There were people who --

1 Q As a process of working through?

2 A Right, right.

3 Q Is there anything else about the SBA's
4 handling of the investigation into Capital Management
5 Services and David Hale that you may think is
6 relevant to this committee's investigation?

7 A I've been thinking about that since my call
8 from Susan Schmidt at The Washington Post alerting me
9 to the fact that I had been -- she called about a
10 half hour before you did, but --

11 MR. IVEY: Only because he was still on the
12 task.

13 MR. DINH: I can't believe she beat me.

14 THE WITNESS: Right, right. You get high
15 marks for tracking me down in Dallas, but the -- the
16 thing is I've been trying to think of what I could
17 add that would not be pure speculation, but I've got
18 to really just say that he -- at the time I had a
19 whole lot of other things to be really worried about,
20 and I had had, you know, 12 years in the
21 administration, so I was somewhat privy to, you know,
22 had this come through, I mean it seems to me I would

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1 have remembered it more distinctly than I did. But I
2 had other things to worry about and I was just glad
3 to be getting out frankly.

4 BY MR. DINH:

5 Q All right. Is there anything with respect
6 to the SBA's handling of the SBIC program that you
7 can think of that may be relevant to this committee's
8 investigation?

9 A Well, just sort of a -- if I can make a
10 personal comment. I had a meeting with Bowles
11 after -- in '94, I guess it was, and, you know, I
12 think that he did a tremendous job in helping to
13 steer a very difficult situation and continuing on a
14 positive upbeat trend for the administration -- for
15 the SBA, and he struck me as a person of tremendous
16 integrity and really of great skill.

17 And he scared everybody at the SBA, because
18 he knew how to read numbers and they couldn't hide
19 things, and he really had a great good handle. With
20 no disrespect to other administrators, he probably
21 had the best handle on the financial potential of the
22 SBA of any -- of any administrator that's been there

1 since the beginning. And so he just struck me as a
2 person of tremendous integrity.

3 Q Thank you very much for that, and, as, you
4 know, his confidence in running the SBA was not
5 the -- a subject of any doubt for our committee or
6 any other committee that I know of.

7 A Sure.

8 MR. DINH: I have nothing further.

9 EXAMINATION

10 BY MR. IVEY:

11 Q Let me ask you a few questions. I'll be
12 pretty short I think.

13 A Okay.

14 Q But there is some blank spaces for me that
15 I'd ask you to fill in.

16 A Sure.

17 Q You mentioned that the SBA was under a
18 degree of attack, I guess, during the '92 campaign,
19 and I'm not familiar with what those issues were.

20 So could you tell me what was going on?

21 A Sure. And also they related to the 7A loan
22 program not to the SBIC program.

1 Q And the 7A loan program is the?

2 A That's the general business loan guarantee
3 program. If I can encapsulate for one minute what it
4 was to put it in context.

5 Q Please do.

6 A At that time you may remember, particularly
7 in New England, we had a massive bank -- we had
8 massive bank failures, disproportionate amount of
9 disclosure of financial institutions, FDIC was going
10 in to take over these large portfolios, in doing so,
11 FDIC is charged with liquidating the portfolios, but
12 in doing so, they were liquidating droves of small
13 businesses and driving everyone crazy in
14 New England.

15 We took it as an opportunity to demonstrate
16 how the 7A loan program could be utilized in a new
17 fashion to assist businesses as its charter to assist
18 businesses that were trapped in this FDIC net, if you
19 will, pull them back out, and they weren't in there
20 for any reason other than they had been located with
21 a financial institution that went down, so they were
22 trapped, you know.

1 And we tried like -- we tried a lot to get
 2 our administration as well as the hill interested in
 3 what was going on as a paradyne of perhaps a role the
 4 SBA could play.

5 We were able to save something on the order
 6 of 7, 8,000 jobs in New England during the course of
 7 1992, and, for this, we were criticized for this
 8 being -- because we started in New Hampshire, this
 9 allegedly was part of the Bush master plan to, you
 10 know, win the New Hampshire primary, which is just so
 11 absurd, it's not even -- it's just not funny, and we
 12 were criticized for that dramatically.

13 It became kind of a football, and we had a
 14 lot of hearings. And the Senate Small Business
 15 Committee was very irate and the small business
 16 committees was very irate and everyone was very
 17 irate, but we did manage to do some good there for
 18 which I am happy.

19 Q Was this connected with the Bank of New
 20 England?

21 A Subsequent to the Bank of New England and
 22 New Hampshire, for example, you had seven of the nine

1 major banks in New Hampshire collapse
 2 simultaneously. And we saw it as a responsibility of
 3 ours to do something about it, and we made the
 4 fundamental mistake of trying to do something.

5 Q So the steps that you took came -- what
 6 would this have been, early 1992, maybe late 1991 and
 7 the assumption was --

8 A And it started in late 1991, but the only
 9 time anyone got interested in it was when I think in
 10 the -- in late spring of '92 allegedly this was some
 11 part of a master plan to --

12 Q So the New Hampshire primary was already
 13 over?

14 A For all intents and purposes, but
 15 nonetheless I think it had more to do with us not
 16 starting it in Massachusetts or Maine. I mean we
 17 were trying to do this on a systematic basis, but we
 18 did not, you know, care to -- we wanted to do
 19 something, so that was our mistake.

20 Q No good deed goes unpunished.

21 A Not in that case; no call is ever unnoted.

22 Q You mentioned people making claims -- this

1 I guess would be between the times of the election
2 and the inauguration --

3 A Right.

4 Q -- of knowing somebody in order to help
5 themselves in one way or another.

6 A Right, positioning.

7 Q I guess I wanted to get a more general feel
8 for. I mean would this be people who were having
9 difficulties, for example, with the SBA maybe in
10 getting leverage or in contracts where they had
11 concerns about questions they were being raised and
12 audits perhaps, I mean what types of scenarios are
13 you referring to?

14 A No, this is people within the SBA.

15 Q This is within the SBA?

16 A Positioning himself for entrance into the
17 new administration.

18 Q Now, you said, let's see, you mentioned
19 something like that I believe --

20 A I don't recall --

21 Q -- in connection with Hale, and my notes
22 here I have blustering written down, too. Am I

1 misrecollecting what you were saying?

2 A No, I think that was Wayne's term, but
3 blustering seems to be a good way of describing it.
4 We had a lot of people who at the SBA, you know, when
5 they lack the substance, perhaps, to refute an
6 allegation or a charge made against them, blustered,
7 they pulled in a lot of extraneous, do a lot of
8 extraneous issues, attempt to gets political
9 leverage, leverage in the sense, political pressure
10 to bear, but that's my recollection, it's a brief
11 one.

12 Q Now, I guess what brings you here today is
13 the Stephanopoulos issue.

14 A Right.

15 Q And I just wanted to make sure I understood
16 your testimony clearly. I think it was clear, but I
17 just want to make sure I've got it down correctly.

18 A Right.

19 Q George Stephanopoulos is a name that was
20 known to you during the transition period, is that
21 fair to say?

22 A It was known to one and all.

1 Q Okay. And if he had called you, that's
2 something you would have recalled?

3 A Sure.

4 Q But you don't recall getting a call from
5 Mr. Stephanopoulos?

6 A No.

7 Q You do have some recollections of a project
8 that was done for Mr. Stephanopoulos; is that
9 correct?

10 A Right. Let's put it this way,
11 Stephanopoulos becomes a code for that thing that
12 you're trying to define, and it's like Clinton, you
13 know, it's -- it becomes well, we need to have the
14 biggest name we can throw on the table to get people
15 to do something, so we will bring that name in, who
16 it relates to it, it's an intern in Stephanopoulos'
17 office or Stephanopoulos himself, it doesn't matter,
18 because it happens to do with the name as a -- it's a
19 picture of what people -- it's power pictures.

20 You know, when you don't know who -- who's
21 the new administrator, you know, you're trying to get
22 the -- convey the image in the bureaucratic

60

1 shorthand, and that's how I'll put it, that this is
2 something you better do and you better be right and
3 you better do it now and, you know, because someone
4 up the line is going to get it.

5 So Stephanopoulos becomes a shorthand for,
6 you know, other things. And, frankly, since he was a
7 well-known figure at the time, that was an easy
8 shorthand to use.

9 Q So at the agency or -- I'm sorry, the
10 administration at that time, there were political
11 appointees left over from the Bush Administration?

12 A Right.

13 Q But I believe your testimony was
14 essentially that many in the bureaucracy weren't
15 particularly paying attention to you guys at that
16 point?

17 A They could not -- they would not -- there
18 were, some were very kind to us, to me personally,
19 but there were -- most of them were just, you know,
20 (indicating), you know, move aside, my future is in
21 favor with the new group.

22 Q So in order to get something done in the

1 administration at that point, if I'm understanding
2 you correctly, one would have needed to invoke a name
3 like Stephanopoulos or someone connected with the new
4 administration to motivate the bureaucracy?

5 A I would not have used Stephanopoulos had
6 there not been some reason to use Stephanopoulos.

7 Q I'm not saying you pulled it out of thin
8 air.

9 A I mean I've been there and done that. I
10 was on the White House staff myself, so I know how
11 sometimes these things get misapplied and it becomes
12 a shorthand. But there was some reason to use that
13 name, I don't recall specifically why, but I mean I
14 didn't pull it out of thin air.

15 Q Sure. But you -- you didn't have direct
16 contact with him and you're not clear as to who did?

17 A Right.

18 Q Okay. With respect to Mr. Foren, you
19 mentioned that he had accomplished I think you said
20 in one year what probably should have taken four or
21 five?

22 A Right.

1 Q Okay. And that referred to I think --

2 A Four or five SBA years maybe --

3 Q Is that dog years or --

4 A I don't mean to be flip about it, but I've
5 worked in a lot of different bureaucracies. I've
6 worked in the State Department bureaucracy which is,
7 you know -- what I would describe as an extremely
8 serious bureaucracy, you know, where people have a
9 high level of professionalism, and if you ask for
10 something, it'll be done, because there's -- there's
11 an ethic to that.

12 Here you had the other end of the spectrum,
13 no disrespect to the SBA, but you had an organization
14 that was dead for so long that was trying to push a
15 new idea through it or get them to respond to
16 something took, an unbelievable amount of effort,
17 the -- the staffs in the house and the senate, you
18 know, they want -- they didn't have -- they were
19 really kind of afraid of something moving through the
20 SBA like that, I think they were encouraged by it,
21 but that's just to say four or five years, you know,
22 who knows, maybe it would have only taken them three

1 years.

2 Q Let me see if I understand, too, what you
3 mean. There was a legislative package, I take it --

4 A Right.

5 Q -- that Mr. Foren pushed through and
6 this --

7 A It would be like I think we had a little
8 bit to help out with that, Wayne wasn't specifically
9 the only guy, but he did the crafting and the
10 drafting along with all the lawyers at SBA and
11 everything like that, that filled in in the bank. We
12 also had this industry advisor counsel which helped
13 to speed up the work of the legislation.

14 Q What was the package, I mean what was the
15 substance of the legislation?

16 A It was -- it was the -- it was the
17 development of a new type of financial instrument.
18 We called it the equity security or participation
19 security, which before this time, we had the SBIC
20 program, a debenture instrument, a bond instrument,
21 which was designed in the 1950s which was a good
22 useful work-a-day document.

1 But the reason we had all these SBICs in
2 1990 and '91 going in the tank was because they
3 were -- they were lending long on shortterm funds and
4 going under, the classic S&L, you know, kind of
5 problem, and we tried to remedy that by giving them
6 an instrument that would match a longterm focus.

7 The whole -- the bumpers and everybody
8 else, you know, forcing the issue toward getting the
9 SBIC program to go along in its perspective, well,
10 you can't do that with a shortterm instrument, so we
11 needed to develop a longterm instrument, well, this
12 was something that was just unheard of, so it took a
13 long time.

14 And it took a lot of cajoling and education
15 to people to get people to really focus in on and
16 now, I mean the market has pressure-tested that, and
17 it found it very desirable, so...

18 Q Now, you mentioned he stepped on toes.
19 Would those toes have been connected to feet within
20 the administration or -- and by administration I mean
21 the SBA, or were they outside or I mean --

22 A Everybody's, mine included.

1 Q Would that include people on the hill, too,
2 it sounds like you're saying?

3 A Oh, yeah.

4 Q He sort of pushed the committees in a
5 direction that maybe they had not considered going
6 previously?

7 A Right. And you've got to be careful when
8 you're -- when you're not used to that kind of the
9 reaction. You can't just have a monolithic view of
10 the way the world operates and forces everything in
11 it, everything is about compromise and getting people
12 to work with you as opposed to, you know, a crusade.
13 So, consequently, I think it's fair to say that
14 Wayne's view got him into a lot of trouble.

15 Q So you feel that he shortened his career, I
16 guess you could say, by pushing this legislation in
17 the way that he did, it was perhaps his style?

18 A His single-mindedness and purpose of how he
19 pushed the legislation and in some cases how he ran
20 the program to accomplish that end, you know, it's
21 one style that is equated generally with not a long
22 life in the bureaucracy.

66

1 Q Okay. And this would be, I guess, not
2 specific to the SBA, but I guess --

3 A Oh, believe me, you know, it's everywhere.

4 Q And you've worked in a variety --

5 A I've worked in a lot of different federal
6 agencies, and what Wayne did was tantamount to
7 killing himself, I mean his career, let's put it that
8 way.

9 Q We understand. We understand.

10 MR. IVEY: Let me take just a moment, I
11 think I'm done though.

12 (Pause.)

13 BY MR. IVEY:

14 Q Oh, last area that I wanted to ask you
15 about.

16 You mentioned that you had sort of
17 postmortem conversations with respect to Mr. Foren,
18 and I guess him trying to figure out why he was
19 essentially forced out of the agency.

20 A Right. I wouldn't call them postmortems,
21 as much as I would describe them as -- as kind of
22 rehashing events.

1 Q I guess I got cut up in our death analogy
2 from earlier.

3 A Right, it's true. But at that point, you
4 know, it's like the, you know, if only we had fought
5 the battle this way, we wouldn't have lost. You
6 know, how many people in this town are around -- have
7 had those kind of discussions, you know --

8 Q Sure.

9 A -- and will go on forever. So I mean it's
10 basically a rehash I would call it.

11 Q And these conversations took place I think
12 you said you hadn't spoken to him for about a year
13 after you left.

14 A Yes.

15 Q So this would have been early '94 --

16 A Right.

17 Q -- that we're talking about? And he
18 mentioned Mr. Bowles I believe you said in his
19 conversations?

20 A Right.

21 Q And your recollection of that conversation
22 is that Mr. Bowles said let the tips fall where they

1 may essentially?

2 A Those were my words, but that's the
3 impression I got from Wayne's conversation,
4 discussion was Bowles had run an SBIC himself, and he
5 was a very bright -- what we would call operator of
6 an SBIC venture capitalis, so -- he would have had no
7 track with this nonsense that Hale would have been up
8 to, such as I even know what Hale was up to.

9 Q Okay. So I take it from what you're saying
10 that Mr. Foren did not convey to you any sense that
11 Bowles was doing anything improper or unethical in
12 any way?

13 A No. My impression is Bowles would resign
14 rather than do something like that.

15 MR. IVEY: Okay. I have no further
16 questions.

17 THE WITNESS: That's just my impression. I
18 don't know that resigned is the right term, and I
19 wouldn't use that term other than it just sort of
20 popped out, but it doesn't appear to me to be the
21 type of person who would do something like that --

22 MR. IVEY: Okay.

1 THE WITNESS: -- my impression only based
2 upon my limited experience with him.

3 FURTHER EXAMINATION

4 BY MR. DINH:

5 Q Just one final question. I just wanted to
6 make sure we closed the loop and probably help Mark
7 Stevens in trying to find this document that was sent
8 in the name of George Stephanopoulos.

9 Do you know if it was ultimately addressed
10 to Mr. Stephanopoulos? Do you recall that?

11 A I don't know.

12 Q Okay.

13 A I would find out whoever the head of the
14 transition team was, I don't even remember who that
15 was.

16 Q At the SBA?

17 A At the SBA.

18 Q And you testified earlier you do not know
19 who it was?

20 A Yeah.

21 MR. DINH: I have nothing further.

22 MR. IVEY: Thank you for your time.

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1 THE WITNESS: Okay, thank you.

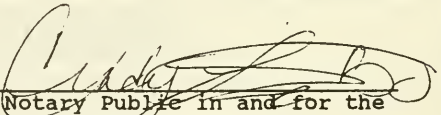
2 (Thereupon, at 3:28 p.m., the deposition
3 was concluded.)

4 -----
5 MITCHELL F. STANLEY

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF WILLIAM A. TEER
IN RE: S. RES. 120**

MONDAY, DECEMBER 4, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM A. TEER, called for examination pursuant to notice of deposition, at 3:15 p.m. in Room 428 of the Russell Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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P R O C E E D I N G S

Whereupon,

WILLIAM A. TEER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record.

A William A. Teer, T-e-e-r.

Q Your present business address?

A 4815 West Markham, Little Rock, 72205.

Q And your business phone number?

A 501-661-2171.

Q You are presently employed at the Health Department in Arkansas?

A Uh-huh, yes.

Q In what capacity?

4

A I'm director of the division of environmental health protection.

Q And how long have you been in that position?

A Since October of 1983, I think it's October 1983.

Q And what did you do prior to that?

A I was the assistant division director.

Q How long were you the assistant division director?

A I have no idea, I really don't.

Q Approximately.

A Three years, four years.

Q So approximately 1980 to 1983, '79 or '80 to '83?

A As far as '79, I was head of the food section, I remember that.

Q How long were you head of the food section?

A Since 197- -- approximately 1977, I guess, '77, '78.

Q And prior to that what did you do?

A I was a sanitarian supervisor in the food

1 section. That was from 1974 until '77, '78, whatever
2 it was, and before that I was a field sanitarian in
3 Texarkana, Miller County, from 1970 until 1974.

4 Q Is that when you first came with the
5 department, '70 or '74?

6 A In 1970, February.

7 Q And you were a sanitarian?

8 A Sanitarian in Texarkana, Miller County.

9 Q Now, the position as director, director of
10 environmental --

11 A Health protection.

12 Q Is that a political appointment or is that
13 a career position at the Health Department?

14 A No, it's a career position.

15 Q Pardon me?

16 A It's a career position. I serve at the
17 whim of the governor or the department director.

18 MR. COLE: So you don't have civil service
19 protection or merit protection? You can be fired
20 without cause or can you only be removed with cause?

21 THE WITNESS: No, I understand I can be
22 removed at any time they want to remove me. I didn't

1 know that when I took the job.

2 MR. COLE: I'm sure you'll appreciate it,
3 us putting it on public record.

4 THE WITNESS: That's all right. I've been
5 asking for demotions for I don't know how many years
6 to get me back into a safe position.

7 BY MR. GICALE:

8 Q Now, it's the director's position, that's
9 what you call a clear position. What about the
10 assistant director or prior positions, were those
11 civil service positions?

12 A Oh, yeah, uh-huh.

13 Q So until you got into the director's
14 position, you were a career employee?

15 A Yeah, that's the way I understand it. No,
16 as far as those positions, they are all state civil
17 service, okay. As far as the director position, the
18 way I understand it, that position is also a state
19 classified position. Now, the division name used to
20 be sanitarian services, and we changed that about two
21 years ago, I believe, the name of the division.

22 Q Mr. Teer, this deposition is being

1 conducted pursuant to Senate Resolution 120. The
2 resolution establishes a Special Committee
3 administered by the Banking Committee to conduct an
4 investigation involving Whitewater Development
5 Corporation, Madison Guaranty Savings & Loan
6 Association, Capital Management Services,
7 Incorporated, the Arkansas Development Finance
8 Authority and other related matters.

9 Section 1(b)(3)(A) and (B) of Senate
10 Resolution 120 authorizes investigation and public
11 hearings into A, the operation, solvency and
12 regulation of Madison Guaranty Savings & Loan
13 Association, and any subsidiary affiliate or other
14 entity owned or controlled by Madison Guaranty
15 Savings & Loan Association; B, the activities,
16 investments, and tax liability of Whitewater
17 Development Corporation and as related to Whitewater
18 Development Corporation, of its officers, directors
19 and shareholders. This will be the focus of today's
20 deposition.

21 You were requested to testify, I believe,
22 last week. This deposition is being taken in advance

1 of public hearings which will continue on this week
2 and probably later on, early in 1996, and it's
3 possible you may testify at those hearings.

4 We will be asking you a series of
5 questions. You're testifying under oath. If you
6 don't understand a question, let us know and we will
7 rephrase the question.

8 The stenographer will prepare a record of
9 questions and answers. The deposition will be
10 treated as Committee confidential until the
11 commencement of the hearings. Prior to the hearings,
12 you will receive a letter from the Committee telling
13 you that you may come to the Senate to review the
14 transcript of your deposition and make note of any
15 corrections for transcription on an errata sheet.

16 Now, I note that you are from Little Rock
17 and we can attempt to make some arrangements to make
18 that available to you since you're from out of town,
19 short of coming to the Committee to review that, and
20 we can talk to you about that afterwards.

21 A Is it set in concrete that I will testify
22 in front of the Committee?

1 Q No.

2 A Okay.

3 Q If you are called to testify at a public
4 hearing, you will be permitted to have a copy of your
5 deposition transcript four days in advance of your
6 testimony. You may be represented by counsel. I
7 note that you are not represented by counsel here
8 today.

9 Objections to the form of questions will be
10 noted for the record. Counsel may object on the
11 grounds of privilege or relevance. The Committee
12 chairman may rule on objections where the witness
13 refuses to answer a question.

14 Now, it's my understanding that, as a
15 result of being requested to appear here today, you
16 obtained copies of documents gathered together by
17 Mr. Dobbins that you reviewed in preparation of your
18 testimony, for your testimony, and you have brought
19 here today; is that correct?

20 A I scanned them. And I have them here.

21 Q Were there any records, in addition to the
22 records that Mr. Dobbins put together and gave you

10

1 copies of, that you also took from your own files?
2 And are they part of the package that you are going
3 to leave with us after your testimony today?

4 A I can. Some of the documentation that was
5 given to me by my staff at the office, and then
6 Dobbins's stack.

7 MR. GICALE: Off the record.

8 (Discussion off the record.)

9 BY MR. GICALE:

10 Q Mr. Teer, you've indicated that, in
11 addition to the materials that Mr. Dobbins supplied
12 to you, you had your staff gather together some other
13 documents that you had in your offices or your
14 staff's offices with respect to this project and that
15 you've reviewed these materials in some fashion. Can
16 you describe the extent of your review of the
17 materials before testifying here today?

18 A Okay. The extent of the review was a
19 scan. I started reading them and realized that there
20 was a lot of information here that I did not remember
21 after being 12-plus years, and decided that instead
22 of trying to anticipate or guess at what you guys

1 wanted, I would just come in and try to truthfully,
2 and to the best of my remembrance, answer whatever
3 specific questions you want.

4 Q Did you speak to anyone about the substance
5 of your testimony before coming in here to testify
6 today?

7 A Yes. Let me see. I spoke to Jerry Hill,
8 Tom Butler, Lex.

9 Q Together?

10 A No. Oh, wait a minute. Yes, yes. Also
11 Terry Brumbelow. Terry was not with the group we
12 had, but I met with Tom Butler, Lex and Jerry Hill
13 earlier in the week before Tom and -- before Tom and
14 Jerry were subpoenaed.

15 Q At whose request did you meet with them?

16 A Tom's.

17 Q What was the purpose of the meeting?

18 A Just to make sure we had all the
19 information we needed, that -- I think it was getting
20 down to a question of being subpoenaed and the main
21 thing that came in was we were trying to remember
22 whether there was anything that came up, or make sure

1 we had all the documentation that was needed. And at
2 that time I told them that I couldn't remember, you
3 know, everything that happened, and the only thing we
4 were going to do, or I was going to do, was just come
5 in and address the questions and be very truthful.

6 As far as Tom and Jerry both, they said,
7 you know, to be truthful, which I intended to do.

8 Also we talked to the attorney, George
9 Harper, and he said the same thing, said all we have
10 to do is just come in and tell the truth, and I told
11 them I didn't intend to do any other.

12 Q Did you go over any chronology of the
13 events that occurred? Did you all discuss that at
14 that point?

15 A The only chronology that came in that I can
16 recall had to do with -- let me see, the sanitarians
17 being replaced. On the McDougal --

18 Q Did you have a discussion about that last
19 Wednesday?

20 A Yeah. Well, Tuesday, Wednesday, whenever
21 it was. Yeah, because I could not remember, you
22 know, when it happened as far as was it before Tom

1 and Jerry's meeting with the governor or after Tom
2 and Jerry's meeting with the governor. I could not
3 recall. All I remember is that it happened, and I
4 think it came out that it was before. I'm sorry, I'm
5 sorry. The sanitarians being replaced, relieved or
6 however you want to call it came after the meeting
7 with the governor.

8 MR. COLE: So if I understand you
9 correctly, prior to that meeting, did you not recall
10 or did you not know whether the sanitarians had been
11 reassigned prior to the meeting with the governor?

12 THE WITNESS: No, I knew that they had been
13 reassigned. I just wasn't sure if the reassignment
14 had come before the meeting with the governor or
15 after the meeting with the governor. I knew it
16 happened at the time. I just needed some refreshment
17 as far as what the time frame was.

18 BY MR. GICALE:

19 Q Did you have any discussions with anyone
20 else other than those people at that meeting?

21 A Like I say, George Harper, Terry
22 Brumbelow -- Terry is now the program director, yeah,

1 program director of the general sanitation section.
2 I call it the general sanitation section, it's
3 actually the environmental program services. He is a
4 member of the division.

5 Q Anyone else?

6 A My assistant director, Jim Shelby.

7 Q Anyone else?

8 A I don't think so.

9 Q When do you --

10 A Oh, wait a minute, I take it back. Also
11 the assistant bureau director, Faye Dobbins, Lex's
12 wife, but it wasn't to the extent of all the others.
13 I just more or less gave her an update of what I was
14 trying to find out.

15 Q When was it you first heard about problems
16 at Maple Creek Farms and its sewage disposal system?

17 A If I remember, I think it was around 1983,
18 1984. We signed an MOU in April of 1984, and I knew
19 there was some problems out there before then, or I
20 had heard about some problems out there before then.

21 Q Now, how were you briefed on the problems?
22 Were you briefed by Mr. Dobbins about the problems?

1 A I believe so.

2 Q Were those oral briefings or did he give
3 you some memoranda?

4 A No, things like that, when it looks like
5 something is about to, you know, in the first throes
6 of a problem, I usually just get oral communication.

7 Q Well, what were the problems as Mr. Dobbins
8 explained them to you? Strike that.

9 Did you hear about the problems directly
10 from Mr. Dobbins or did you hear about them through
11 someone else?

12 A I thought it was from Lex.

13 Q And what did he tell you the problems were
14 on the property?

15 A It's not verbatim. You know, just roughly,
16 about just problems with soil problems, septic tanks,
17 possibility of septic tanks malfunctioning, things
18 like that. That's really about it.

19 Q Did he tell you about conversations that he
20 had with McDougal with respect to clearing those
21 problems up?

22 A With those he had given me or I had seen

1 letters, but I don't remember if it was -- I don't
2 think it had gotten to that point yet.

3 Q Well, did he show you, for instance, a copy
4 of the memorandum of understanding executed on June
5 23, '83?

6 A Yeah, but he --

7 Q And marked for identification as DKS
8 013438 through 439, which required, among other
9 things, that all lots contained in Maple Creek
10 Estates were to be a minimum of three acres.

11 A Be a minimum of three? Yes.

12 Q Did he make you aware of that agreement?

13 A He told me they had signed an MOA, an MOA,
14 and at the time he may have shown me that at the
15 time, but when you said first contacted, it was more
16 or less a verbal communication type thing that there
17 were problems out there. This was not the first
18 contact that I think he had with McDougal, I don't
19 believe, was it?

20 Q So since this is dated June 23, 1983, you
21 heard about this sometime earlier than June 23, 1983?

22 A Yeah.

1 Q Now, did Mr. Dobbins indicate to you that
2 he was concerned about the soil suitability and that
3 he felt that there should be some kind of community
4 sewage disposal system on the property?

5 A I can't remember if that came up before
6 that 1983 agreement. I know we had talked about it,
7 but exactly when we talked about public sewer, I
8 really don't remember.

9 Lex did say that there was a section over
10 there at Maple Creek that was going to have community
11 sewer, but I wasn't sure if he was talking about the
12 houses or just the business area. It just kind of
13 runs together. I know in that meeting we had in
14 1984, we finally sat down, I think, and asked
15 McDougal to sewer all of or most of it.

16 Q The meeting you're referring to resulted in
17 this memorandum of understanding dated April 26, 1984
18 and marked as -- for identification as DKSX 013288;
19 correct? Is that the meeting and the memorandum
20 you're referring to?

21 A Yes.

22 Q And it was in that meeting that McDougal

1 agreed to provide sewer system to serve Maple Creek
2 Farms, except lots 300 through 340; correct?

3 A Yes.

4 Q Now, during the meeting to discuss this
5 proposed agreement, did Mr. McDougal express any
6 reluctance to go along with this agreement at that
7 time?

8 A Reluctance? I'll tell you the main thing I
9 remember about the meeting. I don't know how long it
10 lasted; I don't know what all was said; but in the
11 meeting, Mr. McDougal, in my opinion, was extremely
12 brash, disrespectful, arrogant, butting in and
13 saying, we won't do this; I don't remember him saying
14 anything like that.

15 He did end up signing it, but now he did
16 throw it back across at me after he signed it and
17 said, as far as he's concerned, it wasn't worth the
18 paper that it's written on.

19 Q Did he refer to you and an individual by
20 the name of Bruno Kirsch as incompetent bureaucrats
21 at that meeting?

22 A I wouldn't doubt it.

1 Q SOBs?

2 A I wouldn't doubt it.

3 Q Did he tell you the memorandum was
4 worthless and that the governor was his good friend?

5 A I don't remember him saying the governor
6 was his good friend. By that time we knew that he
7 and the governor knew each other.

8 Q How did you know that?

9 A I think Lex told me.

10 Q How did it come up?

11 A Just shoptalk. I don't think it was in
12 this meeting. At this meeting I think we had already
13 known that McDougal and the governor knew each other
14 and were friends.

15 Q Well, had McDougal been bragging about it
16 to you or Mr. Dobbins or someone else at the
17 department?

18 A Not to me. I didn't talk to McDougal that
19 much. Like I say, the only thing I can recall is it
20 came up as far as shoptalk. If McDougal did make a
21 threat as far as the governor's office, I really
22 don't remember that. I don't remember him calling us

20

1 unscrupulous -- what did you say?

2 Q Incompetent bureaucrats.

3 A I wouldn't doubt that. After dealing with
4 the man, I wouldn't doubt that.

5 MR. COLE: But do you think if he had said
6 something at that meeting about the governor, you
7 would recall it?

8 THE WITNESS: Tell you the truth, I'm
9 trying to look back, like I say, over those years,
10 because I have had so many people throw the
11 governor's name at me as a threat, and it just -- you
12 know, I've just gotten to the point of just letting
13 it go over my head.

14 MR. COLE: .Business as usual?

15 THE WITNESS: Yeah, really. And my feeling
16 is that, hey, if you want to take that shot, go for
17 it, but now again, that was back in 1983. I was a
18 little bit more impressionable back then than I am
19 now. But I think I got more -- I was more irritated
20 with his brother-in-law, Senator Henley, he was also
21 at the meeting. But again, as far as what the
22 Senator said, I really do not remember.

1 BY MR. GICALE:

2 Q Why was his brother-in-law, Senator Henley,
3 at the meeting?

4 A Why was he there?

5 Q At the meeting.

6 A I don't know, I don't know. As far as
7 threatening us, as far as using legislative power,
8 whatever, to threaten us, I don't recall him even
9 saying that. A lot of times people will come into
10 our office and they will bring a politician with
11 them. I guess for -- just to show that -- clout or
12 something like that. That's happened a number of
13 times.

14 But really, as far as McDougal saying that,
15 one of my staff said that he called me an SOB and I
16 really -- I don't remember it, I really don't. I
17 mean, I don't hold the man in high esteem anyway, so
18 it would be a lot easier to say yeah, that's right,
19 he's this and that, but I really don't know.

20 Q Now I'm going to show you what's marked for
21 identification as an exhibit marked Dobbins 1.
22 There's no date on this, but I believe it's June of

22

1 1984. Is this a copy of a letter Mr. Dobbins sent to
2 you in '84 with respect to his dealings with McDougal
3 and that property, if you recall?

4 (Witness reviewed the document.)

5 A I don't recall it. However, I remember
6 seeing it, I think, in the packet Lex gave me, also
7 in files we have at the office. I think this led to
8 a letter I sent McDougal.

9 Q Do you have a copy of that? Dated July 2,
10 '84?

11 A I don't know, but it's almost practically
12 the same thing as Lex outlined in his.

13 MR. GICALE: Off the record.

14 (Discussion off the record.)

15 BY MR. GICALE:

16 Q Showing you what's marked for
17 identification as GD 0173 through GD 0174. This is a
18 letter dated July 3, 1984 to James McDougal from
19 you. Is this the response to Mr. McDougal's letter
20 to --

21 MR. COLE: You mean to Mr. Dobbins's
22 letter?

1 BY MR. GICALE:

2 Q Yes, I'm sorry, Mr. Dobbins's letter.

3 A I believe so. I believe it is.

4 Q Now, why at that point were you responding
5 to Mr. McDougal as opposed to Mr. Dobbins?

6 A The only thing I can -- well, again, here
7 we go as far as trying to remember back then. I can
8 only recall the way we have done things in the past
9 on other issues, not just McDougal, and that is a lot
10 of times if the local sanitarian feels that they are
11 not getting anywhere with the developer, with a food
12 service operator, with a landowner, whatever, what we
13 will do at the state office sometimes is we will
14 write a letter under our letterhead and my signature
15 to see if that would be enough to influence the
16 people to come around or to comply with our wishes.

17 Q Is that what happened here?

18 A I would think so. I would think so,
19 because like I say, when you read Lex's letter for
20 the most part, those two things on site protection
21 and, what was the other one, site protection and
22 drainage? Site protection and site drainage I think

1 he mentions in his.

2 And also in some cases too, if a
3 sanitarian, if there is a situation coming in to
4 where there might be a seemingly contentious
5 relationship between a property owner or landowner
6 and -- an establishment owner, somebody like that,
7 and a sanitarian, sometimes we will try to take the
8 burden off that sanitarian or try to help out with it
9 by sending something like that under our signature.
10 Some people are more apt to react if you have a state
11 logo on the top of the letter rather than a county
12 logo, and the only thing I can think is maybe that's
13 what happened here.

14 MR. COLE: Had a contentious relationship
15 developed between Mr. Dobbins and Mr. McDougal at
16 that time, do you recall? And I'm focusing on the
17 time of the letter, not what may have happened
18 later.

19 THE WITNESS: The letter was July 1984.
20 I'm thinking by that time, it was getting to a point
21 to where there was beginning to be a contentious
22 relationship between Mr. McDougal and all of us, I

1 think. I mean, like you say, he's sitting here at a
2 meeting calling me incompetent bureaucrat and SOB and
3 all this other stuff, and I would imagine back -- as
4 far as knowing for sure that yes, it was, I don't
5 know. I really don't recall, but I do know that
6 there was a contentiousness with Mr. McDougal with
7 just about anybody in government that he was dealing
8 with from our agency.

9 BY MR. GICALE:

10 Q So even though he signed this agreement on
11 April 26, '84, it was clear with respect to his
12 comments that he didn't think the agreement was worth
13 much of anything?

14 A Yeah.

15 Q Would that be a fair assessment?

16 A Yes, yeah, very much. And the main thing I
17 was just happy with, we had his name on a piece of
18 paper.

19 Q Now, up to that point did you have any
20 disagreement with respect to the way Mr. Dobbins was
21 making his decisions and conducting himself with
22 respect to this piece of property, and his

1 relationship with Mr. McDougal and McDougal's
2 representatives?

3 A What I remember of it, I didn't.

4 Q I'll show you what's marked for
5 identification as GD 0176, a document dated July 17,
6 1984 to William Teer from James McDougal, wherein he
7 responds to your July 3 letter saying that he's in
8 agreement with your recommendations; correct?

9 A Uh-huh. I'm sorry, yes.

10 Q Is that a copy of the letter you received
11 at that point in 1984?

12 A Yes, according to this date, yes. See,
13 there were times throughout this whole process that
14 we kept hearing from McDougal, from his people, that,
15 you know, we have plans for sewer, we're moving ahead
16 with it, we're going to do all this stuff. He kept
17 throwing these little, how do I want to say it --

18 Q Kept promising to comply?

19 A Promises, yeah, he kept throwing these
20 little promises out there that, yeah, we're going to
21 do this. And we kept biting, we kept saying okay,
22 we're trying to work with you, we're trying to do

1 this and trying to -- and at the end nothing was ever
2 done. I think we finally realized it maybe in '88,
3 '89, something like that, that this thing was going
4 nowhere.

5 Q And so it never was a community sewer
6 system?

7 A Huh-uh, no, no.

8 Q Now, do you --

9 A As a matter of fact, just for you-all's
10 information, I don't know if Lex told you, but there
11 is a group of guys that are trying to buy up that
12 property, they may have already bought it, trying to
13 get sewer over there now. Nothing to do with
14 McDougal, as far as I know.

15 Q Do you know whether or not in August of
16 1984, McDougal hired an attorney by the name of Larry
17 Crane, who was concerned about looking at some
18 records of Lex Dobbins's because of some statements
19 he had perhaps made to a prospective purchaser which
20 caused a purchaser to back out of purchasing a home?

21 A I remember Larry Crane. I remember
22 McDougal hiring him, or it was McDougal's attorney.

1 He came into our office and wanted to take a look at
2 our records, I believe as far as Maple Creek goes,
3 and I remember him talking to me and at that time he
4 said something about -- wait a minute. I think he
5 said something about, okay, as far as harassment by
6 Lex.

7 Q He told you he had been harassed by Lex
8 Dobbins?

9 A He said --

10 Q "He" is the attorney or "he" is McDougal?

11 A No, "he" is the attorney, and he said Lex
12 had been harassing McDougal and he wanted to get
13 copies of our records.

14 Now, at that time I don't recall if he said
15 whether or not they wanted Lex's job, you know, when
16 he met with me, but there's so many people we deal
17 with on a daily basis that say that they want our
18 jobs, so, I mean, dealing with Larry Crane was like
19 dealing with some of these others. I mean, it just
20 goes over the head. I let him look at the records
21 like I am supposed to under the law, and that's about
22 mainly it.

1 Q Showing you what's marked for
2 identification as DKS 014314. It's a memorandum
3 from Jim McDougal dated January 17, 1986 and
4 unfortunately does not have a "to" section but it
5 refers to state sanitarian William Teer and, first of
6 all, direct your attention to that memo and it refers
7 to you in the last paragraph, paragraph 3, I
8 believe.

9 (Witness reviewed the document.)

10 Have you ever seen this memorandum?

11 A No. Can I have a copy of it?

12 Q First of all, could you take a glance.
13 Specifically review paragraph 3.

14 (Witness reviewed the document.)

15 A Okay. Wait a minute. Can I see it first?

16 Q No, go ahead, review the entire document if
17 you'd like.

18 A No, I haven't seen this. I really don't
19 recall seeing this one. But we don't know who it
20 went to, huh?

21 Q Well, one of the things the third paragraph
22 says is that "strict written instructions from Teer

30

1 to county sanitarians to not discuss our subdivision
2 with our customers."

3 Do you know what McDougal could have been
4 referring to in this memo, assuming he authored this
5 and stated this?

6 A Huh-uh. The only thing that I could --
7 well, you mentioned earlier about, what was it, what
8 Crane was talking about as far as Lex talking to --

9 Q Prospective purchasers?

10 A Yeah. That's probably having to do with
11 that.

12 Q Well, did you issue some directive to
13 sanitarians saying that they could not discuss
14 McDougal's subdivision with customers?

15 A I didn't think I did, huh-uh.

16 Q Well, did there come a point in time in
17 early 1986 when you learned that McDougal's
18 complaints started to increase, and that he decided
19 to seek a meeting with the governor with respect to
20 Mr. Dobbins's treatment of him and his subdivision?

21 A I'm sorry, did you ask a question or make a
22 statement?

1 Q Well, let me restate that. It was a long
2 question.

3 A I'm sorry. I'm from Arkansas.

4 Q When did you first learn that McDougal had
5 sought a meeting with the governor on Maple Creek
6 Farms?

7 A Honestly, I don't know. I really don't
8 remember.

9 Q Well, who told you --

10 A Since I wasn't involved in it, it didn't
11 make me any difference.

12 MR. COLE: Do you remember whether he knew
13 about it before or after it occurred?

14 THE WITNESS: No, not today because, like I
15 say, I had to sit down with staff to try to remember
16 when these reassignments took place. I couldn't
17 remember if they took place before the meeting or
18 after the meeting.

19 BY MR. GICALE:

20 Q Well, you attended the meeting, though?

21 A No, I did not.

22 Q You did not participate in the meeting?

1 A No, huh-uh, no, not at that meeting.

2 Q Which meeting did you attend or participate
3 in?

4 A In regards to what?

5 Q You seem to suggest there was another
6 meeting with respect to this that you may have
7 attended and --

8 A Oh, no, I have attended -- you know, the
9 McDougal meeting that McDougal was there, we wrote
10 the '84 MOU. I attended a meeting with the
11 sanitarians when we were told to bring them in, and
12 it wasn't just Maple Creek. It was the other
13 McDougal properties; Brittany Point, Eden Park, and I
14 was in that meeting.

15 Q Who told you to bring them in?

16 A As far as the exact person, to this day I
17 don't remember. It was either Jerry Hill or Tom
18 Butler.

19 Q And why did they tell you they wanted you
20 to bring them in?

21 A It was in order to show that we were trying
22 to be fair with Mr. McDougal and, you know, trying to

1 show that we're not being impartial or anything like
2 that, we were going to transfer or reassign
3 sanitarians to those, to the McDougal projects.

4 Q Well, did they tell you --

5 A Again, I do not --

6 Q Did they tell you to bring them in after
7 the meeting that occurred with the governor or prior
8 to the meeting that occurred with the governor or
9 both?

10 A I understand it to be after the meeting.

11 Q So there was one meeting with the
12 sanitarians?

13 A Yeah, that is what I could not get
14 straight. That's why I had to go back and ask --
15 that's what I was asking. That's one of the reasons
16 or one of the things I came up with from meeting with
17 Hill and Butler when we got the subpoena, and also
18 talked to Lex because he was in on the meeting.

19 MR. COLE: So just to be as clear as
20 possible, and this goes back to the question I asked
21 you before, is the only knowledge you have what you
22 were told last week when you had the meetings with

1 Mr. Butler and Mr. Hill, or did that refresh a
2 recollection that you previously had of your direct
3 knowledge of the events at the time?

4 THE WITNESS: The only thing I can -- as
5 far as refresh, I still don't remember.

6 MR. COLE: So basically you're relying on
7 what your staff told you or what others in your
8 department told you last week?

9 THE WITNESS: Right.

10 MR. COLE: I just want to distinguish what
11 you know yourself and what others have told you.

12 THE WITNESS: And maybe, you know -- there
13 would be a lot of things as far as I don't know.
14 That's why I'm throwing in "I think," okay, because I
15 am really trying to give you the answers.

16 BY MR. GICALE:

17 Q I understand, I understand.

18 A And I don't want to sit up here like a
19 broken clock or something and say I don't know, I
20 don't know.

21 Q So you recall a meeting where these people
22 were reassigned?

1 A Yeah.

2 Q And who was present at the meeting?

3 A The sanitarians; I believe Tom Jenkins was
4 a sanitarian in White County, Lex in Saline County,
5 Lane Townsend for Brittany Point, Jerry, Tom. That
6 may have been it.

7 MR. COLE: And yourself.

8 THE WITNESS: Yes.

9 BY MR. GICALE:

10 Q Did anybody, either Mr. Hill or Mr. Butler,
11 discuss the conversation that McDougal had with the
12 governor?

13 A No, not with all them, huh-uh.

14 Q Not what?

15 A Not in front of those people.

16 Q Was there a meeting prior to the meeting
17 with these people?

18 A Not that I can recall. You mean with just
19 me and --

20 Q And Butler and Hill.

21 A Not that I can recall.

22 Q Did you ever come to learn what was said at

1 the meeting?

2 MR. COLE: The meeting with the governor?

3 BY MR. GICALE:

4 Q With the governor.

5 A Yeah, Jerry told me.

6 Q Jerry Hill?

7 A Jerry Hill, I'm sorry.

8 Q Jerry Hill had attended the meeting?

9 A Yeah, he told me.

10 MR. COLE: Before or after the meeting with
11 the sanitarians? I'm not trying to make this
12 difficult, but it's an important distinction for our
13 purposes, or at least for my purposes.

14 THE WITNESS: I think it was after the
15 meeting with the sanitarians.

16 BY MR. GICALE:

17 Q What did he tell you about the meeting that
18 they had with the governor and what did they tell you
19 about what McDougal said about Dobbins?

20 A Well, now, Jerry primarily told me that
21 McDougal attacked me and Butler, again bureaucrats,
22 if I remember, incompetent bureaucrats, ranted and

1 raved.

2 Q He attacked Butler as being an incompetent
3 bureaucrat?

4 A Uh-huh, and Jerry, the Health Department
5 people. As far as attacking Lex himself, he didn't
6 say anything specifically about Lex. He just got off
7 on the department as such. Jerry kept saying that
8 his face got extremely red at one -- Jerry Hill's
9 face got extremely red and he wanted to jump in the
10 middle of McDougal, but he didn't.

11 He said that Clinton seemed surprised at
12 the way McDougal was reacting, and that is really
13 it. He did not say anything about Clinton told them
14 to reassign anybody.

15 Q Well, did he tell you how the decision was
16 made to reassign Dobbins and these other sanitarians?

17 A No, I don't remember if they all came up as
18 far as because of Lex or if anything else came up on
19 the other projects.

20 Q Well, who made --

21 A What we have done in the past is when we
22 have a situation going similar to what we had with

1 McDougal, in order to show that we are trying to bend
2 over to be customer conscious and pro customer, is
3 that we have reassigned people, I mean, we've
4 reassigned people all the way back to 197- -- late
5 1970s. As a matter of fact, some of the most recent
6 things we've had was, let me see, we reassigned a man
7 on an establishment as of this year, I believe.

8 Q Well, who made the decision to reassign
9 Dobbins and the other sanitarians?

10 A As far as I recall, Tom.

11 Q Tom Butler?

12 A Uh-huh.

13 Q When did he tell you that he had made the
14 decision to reassign these people?

15 A Well, I'm thinking that if we had a meeting
16 with Hill and my assistant and Tom, it was told in
17 that meeting, but again, I don't remember if we had
18 another meeting before we met with all the
19 sanitarians or not.

20 MR. COLE: So do you know whether you knew
21 going into the meeting with the sanitarians that they
22 were going to be reassigned? Or did you learn it for

1 the first time at the meeting?

2 THE WITNESS: I must have known it before,
3 but I don't recall how. You know, if somebody
4 dropped a hint, if we'd had a full-fledged meeting, I
5 just don't remember.

6 BY MR. GICALE:

7 Q But, in any event, it was Butler as opposed
8 to Hill that made the decision to reassign them?

9 A Oh, yeah, Tom. Tom makes those decisions.
10 Well, usually Tom makes those decisions when we have
11 had reassignments before. Now, those back in '70 Tom
12 wasn't in his position to do that.

13 Q Did Butler tell you why he was making
14 that -- the decision to reassign Dobbins and the
15 others?

16 A I'll put it this way. He probably did
17 because he always has -- whenever he, you know, made
18 a decision on that, you know, like that as far as
19 reassignment, he has always told us. So I would
20 imagine he probably did at that time.

21 Q But today you don't remember whether --

22 A I don't recall, no.

1 Q -- the reason he gave?

2 A Huh-uh.

3 MR. COLE: What's the reason he generally
4 gives for reassigning?

5 THE WITNESS: The reason he generally gives
6 is that, again, we're trying to show that we are
7 being fair to the people. If an accusation comes up
8 against a sanitarian or us being against a person,
9 trying to harass them, trying to be arbitrary, he
10 will reassign somebody in the hope that the
11 reassignment will show that we are trying to be fair.

12 MR. COLE: And do you have any recollection
13 that it was anything other than that, and by that I
14 mean any reason other than that on the occasion that
15 we're talking about?

16 THE WITNESS: Not to me. I'll put it this
17 way. If it had come from the governor's office, as
18 much as we talk shop around that place, if it had
19 come from the governor's office, I think we would
20 have heard it after this much time.

21 MR. COLE: So what you're saying is you've
22 never heard from any source that it came from the

1 governor's office?

2 THE WITNESS: No, I've never heard that.
3 The people who were in that meeting from our side had
4 to be, if I remember right, Dr. Saltzman, the
5 director, Jerry Hill and Tom Butler. I don't
6 remember of anybody else on our side being there.

7 And, like I say, at that time Jerry and I
8 and Lex were close enough to where I think it would
9 have come out. I think Jerry would have been
10 extremely frustrated and I think Jerry would have let
11 us know it.

12 BY MR. GICALE:

13 Q Do you know whether or not Hill told you
14 that McDougal had accused Dobbins of harassing him?

15 A I don't remember if Hill had told me. Like
16 you say, Larry Crane may have been the first one that
17 mentioned it to me. I think there's a lot of things
18 that Lex does being exuberant about his job, and a
19 lot of people do take that as harassment, and that's
20 why, you know, if I had had a notification that Lex
21 was harassing somebody, it would not have been the
22 first time. But after working with Lex as many years

1 as I have, I also know that what may be harassment to
2 some people may be exuberance on Lex's part. I mean,
3 Lex really cares about his job very much.

4 Q He really cares about how these
5 developments are treated and the systems that your
6 department is responsible for?

7 A Yes, yes. As a matter of fact, Lex used to
8 head up the -- well, I say head up, the septic tank
9 section. Lex was a sanitarian supervisor in the
10 septic tank section when he was in our office. He
11 was one of the most knowledgeable people we had in
12 the state on the septic tank program and also the
13 septic tank regulations. That's why a lot of times
14 when it came to technical expertise or technical
15 opinion or something like that, even with Lex being
16 down in Saline County, I would call him if we had a
17 question come up, rather than Mr. Glover, who was the
18 head of the section. Does that make sense?

19 Q I understand what you're saying. So with
20 respect to Maple Creek Farms, was there any aspect of
21 Dobbins's decisionmaking that you disagreed with from
22 the time that you became involved in it to the time

1 that he was reassigned?

2 A Not that I recall. The only thing I could
3 say, if anything, is Lex's exuberance over any
4 project. I keep telling Lex he needs to calm down,
5 we just need to take things a step at a time and it
6 will work out. I think you guys have been here with
7 him two hours. I'm sure he came across as being very
8 caring, very exuberant as far as his job goes.

9 Q Well, as it turns out, this project,
10 despite McDougal's promises, the community sewer
11 system that Dobbins was concerned about never came to
12 pass; correct?

13 A Uh-huh, uh-huh.

14 Q So he had legitimate concerns; correct?

15 A Yes.

16 Q Now, after the decision was made to remove
17 Dobbins and the other sanitarians, do you recall
18 having anything else to do with the Maple Creek Farms
19 project and Dobbins's successor, Mr. Brumbelow?

20 A I remember -- let me see, Brumbelow called
21 me out on two sites. I don't remember exactly what
22 they were, I mean the details about them. I remember

1 one there was a house, I don't know if a house was
2 halfway finished before the people decided to get a
3 perk. I know there was some problems with the perk
4 data on it. I don't remember how that was worked
5 out, what was finally decided on it. And then there
6 was another time Brumbelow called me out, had to do
7 with a lot, I don't remember the year. Brumbelow
8 said that the lot was unsuitable and I backed him on
9 it and I think at that time Madison, or whoever was
10 handling Maple Creek Farms, I think ended up trading
11 lots with the people. I remember those two
12 instances.

13 Q Do you remember any other incidents after
14 that?

15 A If I remember right, I think we were having
16 some trouble with some individuals, like, I believe
17 there was one gentleman that bought a lot out there
18 and he wanted to divide it. Wait a minute, I don't
19 know if Lex was involved in that one or not. I think
20 his name was Cooney or Coney or something like that,
21 but that was one situation.

22 And then we had another one with a

1 Dr. Senati, and I don't remember what that situation
2 was.

3 Q Do you recall just prior to or at about the
4 time that Dobbins and the others were reassigned,
5 that Butler met with you and those people and said
6 that none of you were to talk with anybody about
7 Brittany Point, Eden Park or Maple Creek in or
8 outside of the office?

9 A No. I'm not saying it didn't happen. I
10 don't recall it. I know all the guys would call in.
11 They gave us a status report on the three projects,
12 but as far as Butler saying, you know, not to talk
13 about it, really, I don't recall.

14 Q Did you know a person by the name of Janice
15 Choate?

16 A Yes.

17 Q Who was she?

18 A At the time she was a governor's aide.

19 Q Did you deal with her directly or did you
20 deal with her through Butler?

21 A Oh, at times I dealt with her through the
22 Bureau office, through Hill's office, and at other

1 times, after I got to know her some, I dealt with her
2 on some matters. See, at the time she was governor's
3 aide, but I believe she was liaison with Health
4 Department on a lot of cases or a lot of times, we
5 would get complaints, various complaints around the
6 state, it would come from her to us and she would
7 give us the complaint; we'd handle it; I'd send the
8 results back to her, either by phone or send a letter
9 to her, something like that, saying it had been taken
10 care of.

11 Q Do you recall, ultimately, it was the
12 conclusion of the Department that whoever was
13 assigned to the lots out there, the conclusion was
14 going to be the same, that the soil was not suitable
15 for septic tanks?

16 A I think it was more suspicion than taking
17 for granted, because whatever else failed, those lots
18 still had to stand on their own.

19 Q I'm going to show you what's marked for
20 identification as DKS N 013419 and 420. This is a
21 copy of a document. I just wonder if you recognize
22 the handwriting.

(Witness reviewed the document.)

And if you've ever seen that document before.

A Huh-uh.

Q That's a no?

A No. I'm sorry, no. Let me ask you this about the document. It mentioned Butler --

MR. GICALE: Off the record.

(Discussion off the record.)

BY MR. GICALE:

Q So it's your testimony that you do not recall being told any other specifics of the conversation that occurred with McDougal and Governor Clinton and the others from your department; correct?

A No, right. Yes.

Q And it's also your testimony that you do not remember today whether or not Mr. Butler gave you a reason for the decision he made to reassign Dobbins and the others; correct?

A Right, yes.

MR. COLE: I'm sorry, I think I recall his testimony was that he believed that Mr. Butler gave

him a reason, but he can't recall today what Mr. Butler told him.

THE WITNESS: If it was anything like it has been in the past, as far as recalling anything, what was said, I don't recall it.

BY MR. GICALE:

Q It was his practice to give you a reason?

A Yes.

Q You don't remember whether or not he gave you a reason and therefore you don't remember what the reason was; correct?

A Right, right.

MR. COLE: Well, just to be clear because as I heard his testimony the first time it came out, it was slightly different, it was a little bit more emphatic that he believed Mr. Butler had given him an explanation.

And so just to follow up on what Mr. Gicale said, would it have been unusual for him not to have given you an explanation of a reassignment of this nature?

THE WITNESS: Yes.

1 MR. COLE: And while you can't recall one
2 way or another, at least you have no recollection of
3 not being given an explanation and thinking that was
4 odd at the time? And I realize that's a convoluted
5 question. If you don't understand, I'll try to ask
6 it better.

7 THE WITNESS: Yeah, do.

8 MR. COLE: What I'm saying is I -- you
9 don't recall --

10 THE WITNESS: No, because I thought I
11 answered you honestly, but you're right, in the past
12 every time Tom ever did anything, he always gave us a
13 reason.

14 MR. COLE: And my question is a very simple
15 one. Do you, sitting here today, have any
16 recollection of him not giving you a reason in this
17 instance?

18 THE WITNESS: No.

19 BY MR. GICALE:

20 Q And my simple point is, you just don't
21 remember the reason he gave you; correct?

22 A Yes, but like I said before --

1 Q Go ahead.

2 A Every time Tom has ever made a
3 reassignment, I may not -- I won't say I disagreed in
4 every instance, but he has always given a reason, and
5 it usually has been, you know, what he thought was
6 best.

7 If we could show -- or the best way to show
8 that we were trying to be fair with an individual,
9 and we are not trying to be arbitrary. When it has
10 come to the point as far as Tom reassigning
11 personnel, if I recall correctly, those are the
12 reasons that come to mind, that he gave.

13 Q Now, how long did you work with
14 Mr. Butler -- have you worked with Mr. Butler?

15 A In what position? I mean Tom has been in
16 the same building as I have since 1970s, but in his
17 position as deputy director, is that what you're
18 asking?

19 Q Well, is the building you're in just housed
20 at the Health Department?

21 A At the Department, yes.

22 Q So he's been with the Health Department

1 since the '70s?

2 A That I know of, yeah. Put it this way, he
3 was there when I transferred into the office in 1974,
4 if I recall seeing him. I think I recall seeing
5 him. I guess that's what happens when you start
6 getting old and start forgetting. I keep on
7 forgetting, but I think he was there in the mid-'70s,
8 when I came in.

9 Q Well, who was it --

10 A Now, as far as him being deputy director,
11 he's been deputy director since, I believe, the early
12 '80s.

13 Q Who appointed him to that position?

14 A The director, the department director at
15 the time.

16 Q Who was, if you recall?

17 A I believe it was Dr. Saltzman, Ben
18 Saltzman.

19 Q Now, are you aware of any pressure either
20 Saltzman, Hill or Butler received from the governor's
21 office or its representatives to have Dobbins or the
22 others removed or reassigned?

1 A I don't, no. Like I say, if Hill had any,
2 I think after all these years, as close as we were, I
3 think I would have heard about it, and he has never
4 expressed that.

5 Q Do you know the governor?

6 A I know who he is. I've met him a couple of
7 times at -- my wife is the executive director of Big
8 Brothers/Big Sisters in Pulaski County, and he has
9 been roasted by that group and also a roastee, a
10 roastee and a roaster. And I have shaken his hand.
11 Now, knowing him does not necessarily mean -- you're
12 not asking me whether or not I like him, are you?

13 Q No, I didn't ask that question. I just
14 wanted to know whether you knew him.

15 A Okay, yeah.

16 Just off the record?

17 Q No.

18 MR. GICALE: I have nothing further at this
19 point.

20 THE WITNESS: I was just going to ask you
21 something.

22 MR. GICALE: Off the record.

1 (Discussion off the record.)

2 BY MR. GICALE:

3 Q Who determined who would be Mr. Dobbins's
4 successor?

5 A I didn't realize this until Lex said
6 something about it in the meeting with Hill and
7 Butler last week, but Lex says that he's the one that
8 offered Brumbelow's name up.

9 Q So Dobbins suggested Brumbelow?

10 A Uh-huh, yes.

11 Q And you don't recall that independently;
12 that's what you -- you learned that last week when
13 you talked to Dobbins?

14 A Yeah, yes. Like I say, it has been a long
15 time ago. Even looking over this documentation, I
16 couldn't recall it. There was a lot of things I
17 could not recall.

18 Q Well, were you aware of any pressure from
19 anyone to appoint Brumbelow to the project?

20 A No, no.

21 Q Or any of the other sanitarians who
22 replaced the other sanitarians in the other counties?

1 A No, no. A lot of times, on something like
2 that, we will get input from the supervisors, who
3 they would want. We also kick it around our staff as
4 far as who is familiar with some of these projects,
5 who they can work with, and Brumbelow was also one of
6 the closer ones, he was in the adjoining county.

7 Even though there was a sanitarian, another
8 sanitarian in Saline County, and that's the county
9 Dobbins was in, if I remembered right, he was not
10 picked because of Lex's possible influence on him, so
11 we wanted to go outside. Lex thought that Brumbelow
12 would be a good pick.

13 MR. GICALE: I have nothing further.

14 EXAMINATION

15 BY MR. COLE:

16 Q I just have a couple of follow-up questions
17 on one area, Mr. Teer, and that has to do with the
18 reassignment of the sanitarians from Maple Creek and
19 the other developments after the meeting at the
20 governor's office. You described the practice that
21 had been followed in your department in situations
22 like this, and if I understood you correctly, you

1 testified that if a problem arose with the developer
2 or other person that was regulated by your
3 department, and they made complaints about an
4 inspector, the general practice was to reassign and
5 replace that inspector with someone else; is that
6 correct?

7 A Uh-huh, yes.

8 Q And I realize that you did not attend the
9 meeting in the governor's office that Mr. Butler and
10 Mr. Hill and Dr. Saltzman attended, but if at that
11 meeting Mr. McDougal had made statements about
12 Mr. Dobbins, such as that Mr. Dobbins was harassing
13 Mr. McDougal and was attempting to intimidate
14 Mr. McDougal, would you have expected that
15 Mr. Butler, having heard those statements, would,
16 under the normal procedures that you followed at that
17 time, have reassigned Mr. Dobbins?

18 A Yes.

19 Q And so, to your knowledge of the way your
20 department worked at the time, the reassignment would
21 have taken place as a matter of course if those
22 allegations had been made, whether or not the

1 governor had been sitting there at the time?

2 A Yes. Now, that is not to say that every
3 time we get a complaint on a sanitarian, first thing
4 we do is reassign. It is usually after we get a
5 number of complaints, polite complaints, or if they
6 are strong in that it has been a number of
7 occurrences.

8 Q How about a situation where there appears
9 to be a personality conflict or a personal dislike
10 has developed or serious personal disagreement has
11 developed between someone who is regulated by your
12 department and an inspector, is it appropriate in
13 that instance to reassign the inspector?

14 A It has been done that way. I won't say
15 appropriate or what, because I have not necessarily
16 agreed with reassignment.

17 Q But that's the practice that's been
18 followed?

19 A Yes. And like I say, it is not done
20 willy-nilly, it is not done a large number of times.
21 I can only recall about five or six times in the 20
22 some-odd years I've been there.

1 Q But in the instance that we're talking
2 about here involving Mr. McDougal, neither --

3 A Let me interrupt you. I say five or six.
4 That would be about 10 or maybe nine when you look at
5 all of the McDougal projects, because the Brittany
6 Point and Eden Park and all were reassigned.

7 Q But the practice you described, I believe
8 you testified, has continued up to as recently as
9 this year, you at least said there had been a
10 reassignment situation?

11 A Yeah, and that one had to do with food
12 service enforcement.

13 Q And, finally, I believe you testified that
14 you have never been told by Mr. Hill or Dr. Saltzman
15 or Mr. Butler that they were pressured by the
16 governor or anyone in the governor's office to
17 reassign --

18 A No.

19 Q -- these inspectors; is that correct?

20 A Right, yes.

21 MR. COLE: I don't have anything further.

22 MR. GICALE: I don't have anything

1 further.

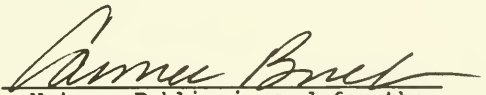
2 (Whereupon, at 4:38 p.m., the deposition
3 was concluded.)
4
5

6 WILLIAM A. TEER
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF TOM BUTLER
IN RE: S. RES. 120**

TUESDAY, DECEMBER 5, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of TOM BUTLER, called for examination pursuant to notice of deposition, at 3:35 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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PROCEEDINGS

Whereupon,

TOM BUTLER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record.

A Tom Butler.

Q Your present business address?

A 4815 West Markham, Little Rock 72212.
Excuse me. It is 72205.

Q Your present position?

A Deputy director.

Q Of?

A Of the Health Department.

Q And how long have you been deputy director of the Health Department?

A 1969 -- excuse me. 1979. 1979.

Q Deputy director of the Health Department from 1979 to the present?

A Right. I believe that was the exact date, somewhere around in there.

Q And what did you do prior to being at the Health Department?

A Prior to the Health Department?

Q Right.

A I worked for Arkansas Power & Light for six months. Before that, I was a lieutenant in the Army.

Q To be clear, you came in in 1979 as the deputy director?

A No. I came in to the Health Department back in 1969 or '70 as a family planning grants person.

Q And then how long did you have that position?

A I will give you approximates. Probably about two years, and then I was administrator for MCH, Maternal and Child Health. I did that until probably around '68 or '69. Then I became a Bureau

1 director of administrative services, and then I
2 became deputy director somewhere around '79 or '80.

3 Q Mr. Butler, this deposition is being
4 conducted pursuant to Senate Resolution 120. The
5 resolution establishes a special committee
6 administered by the Banking Committee to conduct an
7 investigation involving Whitewater Development
8 Corporation, Madison Guaranty Savings & Loan
9 Association, Capital Management Services,
10 Incorporated, the Arkansas Development Finance
11 Authority and other related matters.

12 Section 1(b)(3)(A) and (B) of Senate
13 Resolution 120 authorizes an investigation and public
14 hearings into, A, the operation, solvency and
15 regulation of Madison Guaranty Savings & Loan
16 Association and any subsidiary, affiliate or other
17 entity owned or controlled by Madison Guaranty
18 Savings & Loan Association, B, the activities,
19 investments and tax liability of Whitewater
20 Development Corporation as related to Whitewater
21 Development Corporation of its officers, directors
22 and shareholders.

1 This will be the focus of today's
2 deposition. You were requested to testify last
3 week. This deposition is being taken in advance of
4 public hearings which are currently ongoing and we
5 expect to possibly occur in early 1996.

6 It is possible that you might testify at
7 those hearings. We are asking you a series of
8 questions. You are obviously testifying under oath.
9 If you don't understand a question, let us know. We
10 will rephrase the question. The stenographer will
11 prepare a record of questions and answers. The
12 deposition will be treated as committee confidential
13 until the commencement of the hearings.

14 Prior to the hearings, we will make
15 available -- you will receive a letter from the
16 committee telling you that you can come to the Senate
17 to review a transcript of your deposition and make
18 note of any corrections for transcription on an
19 errata sheet. Since you are from out of town, we can
20 make some kind of arrangement whereby you can review
21 the transcript.

22 If you are called to testify at a public

1 hearing you will be permitted to have a copy of your
2 transcript four days in advance of your testimony.
3 You may be represented by counsel. I note you are
4 here appearing alone today. Objections to the form
5 of questions will be noted for the record. Counsel
6 may object on grounds of privilege or relevance. The
7 committee chairman may rule on objections where the
8 witness refuses to answer a question.

9 Do you have any questions at this point?

10 A No.

11 Q Now, in preparation for your testimony here
12 today, did you review any documents?

13 A Yes, sir.

14 Q Now, where did you obtain the documents you
15 reviewed?

16 A Most of them I had, but I also -- I started
17 pulling them together about a year, a year and a half
18 ago, when I started getting telephone calls from
19 reporters.

20 Q I take it that you have a folder here and
21 these are copies of the documents or the originals of
22 the documents?

1 A They are copies.

2 Q Copies of documents you reviewed in
3 preparation for your testimony here today?

4 A Right. Like I said, when I started pulling
5 them together, I got some of them from the division
6 of sanitarian services because I just pulled
7 everything together that we had.

8 Q I would ask that you make these available
9 to the committee.

10 A Sure.

11 Q So Mr. Kolinski, the clerk, can make copies
12 of them.

13 A I brought an extra set for you all.

14 Q You brought an extra set?

15 A I am pretty sure.

16 Q That would help.

17 MR. GICALE: I think before we move further
18 along, I think we should take an opportunity to look
19 at them for a moment.

20 MR. COLE: Let's go off the record.
21 (Recess.)

22 MR. GICALE: Let the record reflect that

1 Mr. Cole and myself, we have reviewed the documents
2 that you brought with you today, and you have
3 indicated that you would make them available to the
4 committee and we could copy them and return these to
5 you.

6 MR. COLE: We confirmed that these are all
7 relevant and within the scope of our resolution.

8 THE WITNESS: Okay.

9 BY MR. GICALE:

10 Q Are the documents that you have produced
11 today all the documents that you believe are relevant
12 to your testimony today?

13 A That's all I have.

14 Q Did you speak to anyone about the testimony
15 here today?

16 A I talked with my lawyer when I called you
17 earlier this morning. I talked to my administrative
18 assistant. She asked me how things were going. That
19 was it.

20 Q Prior to today, did you talk to anybody
21 about what you would be testifying to today?

22 A I talked with -- I talked a week ago with

10

1 Bill Teer, Jerry Hill, Lex Dobbins and I. We got all
2 of our files together when we knew we were being
3 subpoenaed to make sure we had everything and we went
4 through the files.

5 Then I talked with Terry Brumbelow because
6 he is over that section right now, and I wanted him
7 to bring me up to date on what we were doing now in
8 case you wanted to know. I also went over the files,
9 because he also had obviously put together some of
10 the notes back in '94, I think.

11 Q Other than Teer, Hill and Dobbins in that
12 meeting last week, and Brumbelow, was there anyone
13 else you talked to about the substance of your
14 testimony?

15 A No.

16 Q When did you first hear of Maple Creek
17 Farms and its sewer problems?

18 A Realize we are going way back. I am
19 assuming back in '94, but my real recollection of it
20 is --

21 Q Are you talking about '84?

22 A '84, excuse me. My real recollection of it

1 is probably in '86. I knew we had problems there.

2 Q You knew you had problems in '84 or '86?

3 A '84 through '86, I knew we had problems.

4 Q Who brought those problems to your
5 attention?

6 A I can't recall any specific meeting, but I
7 know it would have to be Bill Teer and Jerry Hill.
8 That would be the two people that I would have worked
9 with on the programs.

10 Q Did they describe to you what the problems
11 were with respect to Maple Creek Farms?

12 A We were having a lot of trouble with the
13 developer. It was marginal soil, at best. We were
14 having mal --

15 Q Marginal what?

16 A Soil. We were having malfunctions out
17 there. About that same time, Ms. McDougal was
18 running an ad on television where she rode a white
19 horse around. That sticks out in my mind. Around
20 this time she was trying to sell property.

21 MR. COLE: The white horse ads were for the
22 Maple Creek development?

1 THE WITNESS: Yes. We always laughed
2 because it would show a pond or what looked to be a
3 lake, but it wasn't very large.

4 MR. COLE: Standing water?

5 THE WITNESS: Right. When you look
6 there -- I have grown up in Little Rock, so I knew
7 pretty much about the property.

8 BY MR. GICALE:

9 Q Now, you knew McDougal to be the owner of
10 the property?

11 A I knew he was the land developer and he was
12 the one we were having troubles with, yes.

13 Q Did you talk to him in '84 --

14 A No.

15 Q -- or '85 about this?

16 A No, I did not.

17 Q Most of what you knew came through Teer and
18 Hill?

19 A The way our organization worked back then
20 is that we tried to keep things at the division level
21 unless it got sticky.

22 While this one was sticky, it was sticky

1 from the standpoint of we have a person, we are
2 having troubles getting him to do what we wanted him
3 to do, they, our staff. I knew about it from that
4 standpoint. As far as getting in and talking to him,
5 he had not requested one, and at that point in time
6 the staff felt they were moving him as fast they
7 could and they hadn't called me in.

8 Q You are aware of the fact that he entered
9 into an agreement with the department to hook up
10 these parcels to a community system; correct?

11 A Right. He kept jacking us around. It is
12 part of the conversations I remember having, we would
13 think we had worked it through but we will believe it
14 when we see it type of deal. There wasn't a lot of
15 confidence, even though we signed the agreement that
16 we knew it was going to be one of these constant
17 pushing to get the man to say what he said he was
18 going to do.

19 Q Throughout '84 and '85, were you in
20 agreement with the position your staff people were
21 taking?

22 A Right. It was fairly common. You get a

1 land developer who is not completely cooperative, you
2 try to move him along as best you can and move him
3 toward what we wanted, which is what we wanted, we
4 wanted him to sewer. When he gave us the agreement,
5 from our standpoint, he was going to sewer it at some
6 point in time. So, yes, we were moving him in the
7 direction we wanted him to go.

8 Q Now, were you aware of the fact that he had
9 an attorney, Mr. Crane, contact the department about
10 some complaints with respect to prospective
11 purchasers?

12 A No. I have never met Mr. Crane. I know
13 who he is from papers and TV, but I had never -- I
14 know from the standpoint that I read the letter. I
15 never dealt with Mr. Crane, never had any contact
16 with him.

17 Q When did you first learn that Mr. McDougal
18 decided to go beyond your staff level people and
19 raise it to the level of the Governor's office?

20 A When the Governor called me in '86. I
21 don't have the exact date, but when he called me in
22 '86.

1 Q The Governor called you directly?

2 A Right. That's the reason I remember it.
3 Back then, before '86, I might see the Governor in
4 meetings five, maybe six times, maybe talk with him
5 on the telephone a couple times a year. It wasn't an
6 everyday occurrence that I talked with the Governor.

7 Every time -- in previous conversations I
8 talked with him, it had always been his secretary to
9 my secretary, me getting on the phone and me
10 waiting. This was -- why I remember, it was the
11 circumstances. As I picked up the telephone, the
12 secretary was busy, I picked up the phone and
13 answered it and this guy started talking to me. I
14 kept thinking I know who this is, I know who this is,
15 but it didn't hit as soon as he said, hello, Tom, I
16 need you to do something for me, I think I have a
17 little bit of a problem. I was trying to think what
18 problem and who. That's one of the reasons why it
19 sticks in my memory.

20 Q What did he say to you?

21 A Okay. He just said we have a problem, and
22 he said it was with one of my constituents. I am

1 paraphrasing. Obviously this is '86. He said, I
2 think some of your people are possibly messing over
3 him. At that time I realized it was the Governor
4 talking, or about that time.

5 The next thing he said was really strange,
6 but my secretary made a comment afterwards about it.
7 He said, would you be willing to meet with me and
8 Mr. McDougal, which struck me as kind of funny,
9 because he is the Governor. He was asking me if I
10 would meet.

11 So, I said yes, I would be glad to. He
12 said, let me lay all my cards on the table, and he
13 said, the reason I think some of your staff is
14 messing with this development is because this
15 gentleman has been a supporter of mine since I ran
16 for Congress and he has never asked me for anything.

17 I said, we will be glad to sit down and
18 meet with you. He said, let me get back with him and
19 I will have my secretary call you. That day or the
20 next day, his secretary called and set up a meeting.

21 Q Who was the secretary at the time?

22 A His secretary?

1 Q If you know.

2 A I don't know.

3 Q In any event, his secretary called you
4 back?

5 A Right, and set up a time for me to show
6 up. I don't know if I did it then or when I talked
7 with the Governor the first time, but I told him I
8 wanted to bring the director of the department and
9 also I wanted to bring Jerry Hill. I wasn't going to
10 go meet with the Governor without the director of the
11 agency knowing about it.

12 Q Now, did you talk to him about it or his
13 secretary when you said you wanted to bring someone?

14 A That, I don't remember which one. Whoever
15 I talked with, I got clearance to bring them. I got
16 clearance to bring them from him.

17 Q Was that the extent -- going back to that
18 initial phone call from the Governor, was that the
19 extent of the conversation?

20 A That was it. It was pretty short and
21 direct. It was just about that blunt. Like I said,
22 there are just a couple things that stick out in my

18

1 mind because I remember making a joke that I wasn't
2 going to meet with him or something like that to the
3 Secretary. Also I knew I had had to get Dr. Saltzman
4 involved, that he had been left out of the loop.

5 Q Do you remember when you received this
6 call? You said early '86.

7 A It was -- it had to be before Heptachlor.

8 Q Before what?

9 A Heptachlor. We had a big problem in early
10 '86 with some bad feed getting into the milk cows
11 all over Arkansas. About seven days a week, 15 hours
12 I was working. It happened prior to that. It had to
13 be somewhere between February and March or somewhere
14 around in that area. I just don't have the exact
15 date.

16 Q You eventually met with him on March 4th.

17 A Okay. It was before that, then.

18 Q How much prior to that?

19 A It wasn't more than four days. It was
20 within a week.

21 Q Now, after the secretary called back and
22 arranged for the meeting and you arranged to bring

1 Saltzman --

2 A And Jerry Hill.

3 Q -- and Jerry Hill there, what happened
4 next?

5 A We had a meeting. It was in the
6 afternoon. Like any time you went over to the
7 Governor's office, you went over there and got there
8 on time, but you were prepared to sit for 45 minutes
9 to an hour because he always ran behind schedule.
10 This was no different than other meetings I had.

11 The thing that stuck out in that one is
12 when we got there, we met McDougal; Dr. Saltzman,
13 myself and Jerry shook his hand. Dr. Saltzman was in
14 the position where he carried on a conversation with
15 him. Dr. Saltzman is an elderly gentleman, and he
16 has never met someone he couldn't talk with. He had
17 either delivered a baby or knew somebody. He started
18 talking and we were out there 45 minutes, and it
19 looked like a piece of cake. We were not in the
20 conversation, Jerry and I, but I told Jerry, this is
21 not going to be as bad as I thought it would be.

22 Then we were called into the Governor's

1 office. I did not remember who was there. I knew he
2 had an aide there. I knew it was Janice Choate,
3 because she told me a while back it was here. A
4 while ago I told you, I did talk with Janice Choate
5 about this also.

6 Q Prior to testifying here today?

7 A Yes.

8 Q You went into the meeting and you had
9 Saltzman and you had Hill. Choate was there,
10 McDougal was there, the Governor was there.

11 A Right. We sat around the coffee table and
12 he started off and said, Mr. McDougal or Jim, or
13 whatever he called him, he said, I have Tom,
14 Dr. Saltzman here, I think we have a little bit of a
15 problem, will you lay the problem out, let's see what
16 we can do, maybe we can come to an agreement on how
17 to solve this problem, at which time McDougal went
18 ballistic.

19 It wasn't "I'm glad for the meeting." He
20 threw a volley. He shocked me; he said, I don't know
21 why I'm meeting with these people, they can't do
22 anything, Lex Dobbins is a pothead and everybody in

1 the county knows it, he has something on Tom and
2 Dr. Saltzman.

3 Q "Tom," referring to you?

4 A Right. And Dr. Saltzman, and they can't
5 control him because of what he has on them. That
6 was -- he never followed that up with what the
7 accusation was. It was just sort of like a scatter
8 gunshot.

9 At that time, the Governor, I was sitting
10 to the right, because he looked over, and I was
11 curious as to whether or not he was believing this
12 crap, but he looked over at me and rolled his eyes,
13 like what's going on.

14 He then -- his tirade lasted about five
15 minutes. That's the gist of what he said. I
16 remember him getting real mad. He wasn't screaming,
17 but he was yelling. The Governor sat there. The
18 thing that brought it to a head was Mr. McDougal did
19 not know what Jerry was. He thought he was an
20 engineer. He said, they even brought their engineer
21 here, and that's not fair because I don't have my
22 engineer here.

1 Then he said, you told me the meeting would
2 be between you, me and Tom. That's when the Governor
3 got red. I have been around him enough that I knew
4 when his face got red that things were fixing to hit
5 the fan. He did, he got real red. He said, Jim, or
6 Mr. McDougal, whatever he called him, he said, you go
7 out in the foyer, use the telephone, get your
8 engineer or whoever you want and we will wait here
9 until you get him over here. I told you I would set
10 the meeting up and I set the meeting up.

11 From that time, McDougal calmed down. I
12 think it was pretty obvious he had said the wrong
13 thing. The meeting then settled down to a normal
14 meeting. It was one of many type meetings I have
15 hand when dealing with land developers, it is more or
16 less who shot Jack when and the land is really good
17 and we have done all these great and wonderful things
18 and so on. It took about 45 minutes.

19 The end result was I told him we would be
20 willing to go back out and take another look at the
21 property, because we are not beyond making a
22 mistake. That was the agreement at that time, and

1 the Governor said, I think we can live with this, and
2 you go back out and look at the property. And the
3 meeting was basically adjourned. There was a shaking
4 of hands and everybody left. The Governor told me to
5 stay for a second, he had something else to talk to
6 me about.

7 I stayed, and he said, I don't really have
8 anything. He said, I apologize for the way the man
9 acted, I had no idea he would act this way. He said,
10 you go do what you have to do and you will never hear
11 another word for me.

12 That was my last conversation with the
13 Governor on the matter.

14 Q Now, do you know in the meeting whether
15 McDougal said that he wanted Dobbins fired?

16 A Oh, most likely. He was getting off on
17 Dobbins. I couldn't say for sure, but I know at some
18 point either in that meeting or in the next meeting I
19 had with him that he wanted Dobbins gone. That was
20 the whole gist of the meeting, was for me to get rid
21 of Dobbins.

22 Q He said that Dobbins must go, words to that

1 effect?

2 A I can't say he did, I can't say he didn't.
3 My recollection is that was the gist, that part of
4 the conversation was to get rid of Dobbins, yes.

5 Q What was the Governor's response to his
6 request to get rid of Dobbins?

7 A Nothing. Like I said, he was just
8 ranting. The Governor said very little. He had that
9 little talk when he said, go get your engineer. At
10 the end he said, that sounds fine. We made no
11 promises to get rid of anybody. We said we would
12 come back out and look at the property, and that was
13 it.

14 Q So, the agreement that was made was that
15 you would go out and look at the property?

16 A Yes.

17 Q Was there any decision made at that meeting
18 about what to do with Dobbins?

19 A No.

20 Q Was there any decision made when the
21 Governor took you aside as to what to do with
22 Dobbins?

1 A No, Dobbins's name never came up with me
2 and the Governor ever.

3 Q Whether his name came up or the position.

4 A No, nothing on Dobbins.

5 Q Sometime shortly thereafter, there was a
6 decision made to remove or reassign Dobbins.

7 A Yes. That was mine.

8 Q Did you consult with anybody before you
9 made that decision?

10 A Dr. Saltzman and Jerry.

11 Q Jerry Hill?

12 A Jerry Hill, yes. I not only removed
13 Dobbins, I removed three people from there. I met
14 with those guys. I met with Bill Teer, their
15 immediate supervisor. I know there were some unhappy
16 people in the meeting when I met with them. I think
17 Teer was not really satisfied. He knew I was doing
18 it. Dobbins and the other two gentlemen were not
19 really happy. I called them indirectly because I
20 wanted them to know it was no reflection on their
21 work or anything else.

22 We had gotten to a point, and I know it is

1 in there on one of the dates because I know we put a
2 memo together on it, I believe, by that time, it was
3 after I went out and I met with McDougal and his new
4 general manager. It was after that point in time.
5 The exact date I don't know. I know that there is a
6 memo also in there where either I refer to it or Teer
7 refers to it, somebody refers to it, where McDougal
8 also makes an accusation against the sanitarian in
9 Searcy County, because I had two people look into
10 that, Nancy Kersh and Jim Mills looked into that
11 accusation on that sanitarian, that he was doing work
12 other than Health Department work on Health
13 Department time. We had to review all his time
14 records and everything else.

15 If you wonder why I removed him, the focus
16 was not on the problem. The focus was on -- we never
17 could get around talking about Maple Creek Farm
18 because we were always talking about our employees
19 and who shot Jack when and who did this and who said
20 that, nothing that anybody could ever prove one way
21 or the other. Dobbins was not getting a very good
22 reputation from it. There was no evidence to support

1 McDougal. He never gave us anything. He just kept
2 making the accusations.

3 We have done it in the past and we have
4 done it since then. If we get to a point in time
5 where we are not dealing with the problem, we rotate
6 sanitarians, we move one to one program and move one
7 back in. Then if they come back and tell us our
8 sanitarian has it out for us, that won't hold water
9 at that point in time, because we have moved another
10 one in. Townsend was the other one, and North
11 Pulaski I believe is what he had.

12 Q Who made the initial recommendation or
13 decision to remove Dobbins?

14 A Me.

15 Q So you suggested it to Saltzman and to
16 Jerry Hill?

17 A Yes.

18 Q And how long after the meeting on March 4th
19 with the Governor did you make that decision?

20 A You are really asking me -- I will give you
21 an approximate, because I don't know for sure, but it
22 was somewhere within a month. It was not the next

1 week. I was up to my eyebrows in Heptachlor for
2 about six weeks.

3 There is one letter in there where I
4 apologize to McDougal because he had evidently sent
5 word to me that I hadn't gotten word to him soon
6 enough. It was all you could see over the news, was
7 this pouring milk out all over the state. It wasn't
8 like he didn't know what we were working on.

9 He was giving me a hard time about not
10 answering his telephone calls. I apologized and said
11 I would get back with him.

12 The only other time I met with McDougal was
13 we went out to Maple Creek Farms and it could either
14 have been one meeting or two meetings, okay, but I
15 will have to tell you like it is one meeting because
16 I don't remember whether it was one or two. I
17 remember going -- there is a freeway that runs from
18 Little Rock to Pine Bluff. Maple Creek is on the
19 west side. Across the freeway, on the other side, is
20 a place called Castle Grande. We went over there.
21 He had his offices in a trailer on Castle Grande.

22 When we went over there, I drove up, I

1 asked Jerry or whoever was with us, I said, are we
 2 going to have the same problem here that we have
 3 across the street? Because he was starting to
 4 develop that and you could see the size of the lots
 5 and trailers, that it was going to be the same
 6 garbage if they didn't have sewer.

7 We met there and all I remember -- I don't
 8 remember his name, I just remember he is a stocky
 9 fellow and he seemed real honest. He didn't seem
 10 like a used car salesman, he seemed like an honest
 11 person. We talked with him, and the thing I remember
 12 -- because when I go out, I am window dressing, I am
 13 not an expert on soil. I go out as basically window
 14 dressing as the deputy director going out to solve
 15 your problems.

16 But the people I have with me are the
 17 people who are the experts, and I rely on them to
 18 tell me either during the meeting, pull me off to the
 19 side and say it is a bunch of garbage, or I will not
 20 commit, get back with them.

21 My feelings were that this guy was honest
 22 and he had some grand schemes of putting some berms

1 up and he was telling me about the bulldozer work
 2 they were going to do to shift the flow of the water
 3 around.

4 Q When you say he is honest, this wasn't
 5 McDougal?

6 A No. McDougal was still blowing and going.
 7 He wasn't making any accusations, but it was like we
 8 were good friends, and I had only met him one time,
 9 but I felt like I was being sold a car, you know.
 10 That's why I am out there; he doesn't know that I
 11 don't know soil. I am not going to advertise that.
 12 I have 80-something programs. I am not an expert on
 13 everything.

14 I am just listening to him. The other guy
 15 starts talking and he lays the map out of all the
 16 lots and so forth and shows me the contours, how they
 17 are going to do this, this and that. Either at that
 18 meeting or another meeting they drove me around Maple
 19 Creek Farms. They were showing me a bulldozer they
 20 had that wasn't moving and they showed me the
 21 bulldozer and said they are going to move this dirt
 22 around and do certain things.

1 When I got back, Jerry and I were riding
2 back, Jerry's impression was we might get somewhere
3 because this is the first guy I have talked with that
4 seems to know what he is doing and we might be able
5 to work something out.

6 The guy didn't stay very long. My
7 recollection is he left within six months. That was
8 it.

9 Q In any event, it wasn't until you had
10 visited the property several times --

11 A Twice, at max.

12 Q -- that you made the decision to remove
13 Dobbins?

14 A Right. The reason -- again, I have nothing
15 to back this up, outside I remember calling the three
16 guys in, Bill Teer, Jerry Hill and probably their
17 supervisors, but I don't recall that for sure. I had
18 them come into the central office. I went down to
19 sanitarian services. I remember that.

20 Q Did you do this before the meeting or after
21 the meeting with Clinton?

22 A It was after the meeting. It had to be

1 over a month later.

2 MR. COLE: That would be the actual
3 reassignment? You made the decision earlier?

4 THE WITNESS: No. When I made the
5 decision, it was within a day or two. Once I made
6 the decision, there was no sense in letting this
7 thing drag.

8 BY MR. GICALE:

9 Q In terms of the meeting, you brought them
10 in and at the meeting --

11 A Yes, I brought them in. I'm going on this
12 from the way I operate in general over the last 27
13 years. Once I make a decision, I don't drag it out
14 for three or four or five days, I will call the
15 people in and tell them what I'm going to do.

16 In this case, my reason for calling all
17 three of them in was to make them understand that
18 they had done nothing wrong, nothing was going to be
19 held against them, no loss of pay, no demotions, no
20 anything but that I could not get to where we wanted
21 to get, which is get Maple Creek sewered. The other
22 two I don't even know how many lots, but they were

1 small. They were nickel and dime stuff. But he had
2 already -- we were going to be chasing rabbits.

3 I was taking two people that wrote one
4 study --one was a Bureau director and assistant
5 director, that is the second and third in line from
6 director, right underneath me --to do a study where
7 the guy had used his sick and vacation time.

8 I at that point said I had had enough of
9 this. I told Jerry and Dr. Saltzman, I want them
10 moved. Dr. Saltzman, said go do it. So we did it.
11 I wanted them to know. The one that was the most
12 upset was Townsend, for some reason. He took a
13 personal affront to it.

14 Q Why did you remove the other two from the
15 project?

16 A One of them he had made an accusation about
17 his doing work for another company on our time.

18 Q Who made the accusation?

19 A McDougal. He had made an accusation
20 against him. I can't recall whether he made an
21 acquisition against Townsend in any of these meetings
22 or not, but I know that he did against the one in

1 Searcy County. I cannot think of his name right
2 now. He is still with us. Tom is his first name.

3 Tom I know pretty good. Townsend I met two
4 times. Dobbins and I go way back. I know him and
5 have talked to him quite a bit.

6 Q It wasn't just the fact that Dobbins had
7 been talking to the other two people?

8 A Oh, no, no. They were separate. McDougal
9 was just -- McDougal was doing anything to take the
10 focus off the problem, which was getting the lots
11 that he had signed sewered. He wanted us to give a
12 blanket approval to approve more lots, and I checked
13 this out with Brumbelow, because I was concerned
14 since '86 how many lots did we approve. I talked
15 with Brumbelow the other day, and he said there were
16 over -- approximately 200 lots, and from '86 to the
17 present, we have approved 20 lots. That's the way we
18 left him. We said we would do it on a case-by-case
19 basis.

20 The new people who took it over from RTC, I
21 have met with them now three times. We are still --
22 we still don't have the thing sewered. They are

1 working on it. They called me six weeks ago, and I
2 did the same thing six weeks ago that I would have
3 done in '86, I called down there and said, lot
4 whatever number, what is the story on it. The
5 sanitarian service called the sanitarian that is
6 working the project now and he said, basically, it is
7 no good, we can't put an individual sewage tank on
8 it.

9 So, I called the new owners back and said,
10 we can't approve that lot. And he said, then you are
11 going to stay with that lot-by-lot basis, and I said,
12 yes, until you get a sewer in, we can't do anything
13 about it.

14 Q Eventually there was a point in time when
15 you issued a memo transferring these three
16 individuals?

17 A Yes.

18 Q It was because McDougal had complained
19 about the three of them?

20 A At least two of them. I don't recall about
21 the third one.

22 Q It is your recollection that it was your

1 decision in consultation with Hill --

2 A It was my decision.

3 Q -- and Saltzman?

4 A I just talked with him.

5 Q You made that decision before you went into
6 the meeting with Dobbins and Townsend?

7 A I let them go ahead. I let them do what I
8 let any other employee do, which was give me their
9 best shot and gripe and moan, but I wasn't going to
10 change, and I didn't change.

11 MR. GICALE: Off the record.

12 (Discussion off the record.)

13 BY MR. GICALE:

14 Q Prior to the meeting or the phone call from
15 Mr. Clinton or subsequent to the phone call, did you
16 have conversations -- strike that.

17 Prior to the meeting you had on March 4th
18 with Mr. Clinton, did you have conversations with
19 Carol Rasco and Janice Choate about the status of
20 McDougal's complaints and documentation supporting
21 them?

22 A To tell you that I definitely did, I

1 can't. But I know that I must have, and I would
2 normally have had at least a couple conversations
3 with them.

4 Number one, it would have been standard
5 procedure to call them after I went out there, just
6 to tell them that I did go out there and, number two,
7 when I was going to remove these gentlemen, I would
8 also have called them to cover my rear end on the
9 politics on the local level.

10 In other words, I didn't want -- I have a
11 standard operating procedure. If I am going to do
12 something to an employee out in the county, I make
13 sure everybody who I think might burn me knows about
14 it before the employee goes to them. In this case,
15 if I was going to get burned by any of these guys, it
16 would have been by a representative of the county
17 judge or state Senator calling and saying that I was
18 picking on them. So I let them know that, yes, I
19 made the decision to remove them and that was it.

20 As far as having any conversations with
21 them about this thing, no, nothing. That's what is
22 so strange to me. I have read about Whitewater,

1 which I don't know anything at all about. Maple
2 Creek was a big land development. It is big, from
3 our standpoint in Arkansas. There are a lot of lots
4 out there. I don't know how much money was tied up,
5 but it was a good-sized development.

6 I have had my arms twisted before, but I
7 didn't get twisted on this one.

8 Q Directing your attention to February 5th
9 and a memo I will mark for identification as DKR
10 1600617-A. It is dated 2/5. It is to the Governor
11 from Rasco. What it says -- take a moment to look at
12 it. Please read it to yourself for a moment.

13 (Witness examined the document.)

14 A Okay.

15 Q I know this is not your memo --

16 MR. COLE: Let's give him a clean copy.

17 THE WITNESS: I can't make out a couple of
18 the words.

19 MR. COLE: DKS N 013415, which I believe is
20 a copy of the same memorandum but without a
21 "confidential" stamp.

22 THE WITNESS: Okay.

1 BY MR. GICALE:

2 Q Now, this is not your memo; correct?

3 A I don't know what that is.

4 Q But there is a reference to you in the
5 memorandum saying that you delivered this "Regarding
6 McDougal issue along with backup materials, which are
7 on my desk. Please review, advise." Do you recall
8 delivering any materials to Carol Rasco to deliver to
9 the Governor?

10 A No. The only thing that it could be would
11 be the -- I don't know what the date is on this book
12 right here. I never figured out when exactly I did
13 this on Brittany Point. But that is the only thing I
14 can think of. I don't recall -- I do not recall
15 delivering anything to Rasco.

16 Q You testified earlier that the Governor
17 called you a short time before you ended up having
18 the meeting on March 4th.

19 A Right.

20 Q Was that the first you heard from the
21 Governor or his staff about this issue?

22 A Yes. That was the first time.

40

1 Q If there was this memo from Rasco on
2 2/5/86, would that refresh your recollection and
3 suggest to you that maybe you started talking about
4 this issue earlier or that you got a call from the
5 Governor earlier?

6 A No, I did not get a call from the
7 Governor. I can promise you I did not. I only
8 talked with the Governor one time on this issue.

9 Like I said, before my meeting with the
10 Governor in '86, I knew we were having problems with
11 it. I knew we had a memorandum we were working with
12 him on. We were having a hard time getting him to
13 cooperate. But that's it.

14 Q I'm going to show you what is marked for
15 identification as another memorandum dated February
16 25th. It is marked DKS N 013417. It is dated
17 February 25th. It is to Rasco from Choate. Again,
18 it references you in the first paragraph.

19 A Okay. Go back and give me the date on when
20 I met with the Governor.

21 MR. COLE: The documents we have indicate
22 it was March 4th, 1986.

1 THE WITNESS: So this was before my
2 meeting.

3 BY MR. GICALE:

4 Q Could you just take a moment to review
5 this.

6 A Okay.

7 (Witness examined the document.)

8 Okay. The only thing I can say on this, it
9 would --

10 Q This is not your memorandum, is it?

11 A No.

12 Q It is from Choate to Rasco. Does this
13 refresh your recollection as to any conversation you
14 had with Choate about this situation?

15 A It really doesn't. If Choate said I said
16 this, I did. I trust Janice enough. Evidently they
17 were questioning -- because Deer Run was a piece of
18 property we were also having problems with.

19 Q What was the Deer Run experience?

20 A We lost. Dobbins was the sanitarian on
21 that one. He was the sanitarian over the whole
22 septic tank program at that time. Deer Run was up in

1 northwest Arkansas, and it was with a land developer
2 out of Texas, a guy named G.G. Gale. If you were
3 going to typecast a person in a movie, this would
4 have been the guy back at this time that came in an
5 unbuttoned shirt, chains all over himself, he was
6 going to show the poor boys in Arkansas how to do
7 it.

8 He had some property that was also real
9 marginal. We took him to court to try to get him to
10 sewer and do other things, and we got beat. Excuse
11 me. We won in court, and we ended up looking more at
12 the land and we were able to get some lots changed on
13 it.

14 Q In addition to referencing that Deer Run
15 experience, the second paragraph, first sentence says
16 that "Tom said he met with the four sanitarians
17 listed on the memorandum, Teer, Townsend, Dobbins,
18 Jenkins." That memorandum seems to suggest that you
19 met and discussed this issue with them before the
20 meeting with Clinton.

21 A I could have. I did not, to my
22 recollection -- there was just a short period of time

1 from the time Governor Clinton called me to the time
2 I met with him. To my recollection, between that
3 period of time, I didn't meet with anybody in the
4 meeting. I definitely guarantee you I got brought up
5 to date on what was going on. But --

6 MR. COLE: By your staff, you mean?

7 THE WITNESS: By staff. I didn't go in and
8 meet with the Governor and not be brought up to
9 date. I don't remember meeting with these
10 sanitarians, because like I said, the only time I
11 remember meeting them, I guess the reason I remember
12 this meeting, because it wasn't a fun meeting,
13 because I knew some employees left thinking that I
14 wasn't backing them.

15 BY MR. GICALE:

16 Q The ultimate meeting when you removed them?

17 A Yes.

18 Q So it appears then from this Choate to
19 Rasco memo that you may have been talking to Choate
20 and Rasco about this issue.

21 A It could be. Like I said, we had been
22 working on it, like I said, since the very beginning,

1 '84 through '86. Yes, I had knowledge of it. But
2 when it really came to where my memory kicks in was
3 getting that strange call from the Governor, from
4 that time forward. Then it pretty much dries up
5 after two or three months.

6 Q I'm going to show you another memorandum.
7 This is identified as DKSJ 013404. It is dated March
8 5, 1986. It is to the Governor from Choate. It is a
9 follow-up to the McDougal-Health Department meeting
10 with the Governor. Please take a moment to read that
11 to yourself.

12 (Witness examined the document.)

13 A Okay. This sounds, you know --

14 Q This is not your memorandum?

15 A No, it is not.

16 Q It is from Ms. Choate to the Governor dated
17 3/5/86.

18 A I forgot about the measles outbreak. Yes.

19 Q It has been represented to us the meeting
20 with the Governor occurred on March 4, '86.

21 A This was the next day.

22 Q This memo appears to be the next day. In

1 it, as you can see, Ms. Choate is telling the
2 Governor that she talked to you.

3 A And that I removed all three of them.

4 Q The three men Jim McDougal referenced in
5 the meeting were removed from those jobs?

6 A That's not my recollection. But it says
7 here obviously that I did. My recollection 10 years
8 ago is that I didn't remove them that soon. I know I
9 did not take Dobbins out with me when I went out and
10 met with McDougal, which had to be within a week,
11 because I would not -- again, this is going back just
12 on how I would normally operate.

13 I would not sit on something where I told
14 the Governor or even a Senator or representative that
15 I was going to go meet with somebody, that I would
16 let it lay more than a week. I had to go back out
17 there within a week. I did not take Dobbins with
18 me. I am almost positive of that. But I don't
19 remember removing him until sometime later.

20 MR. COLE: Do you remember when you went
21 back out you took the new sanitarians that had been
22 reassigned?

1 THE WITNESS: No. I never took the
2 sanitarians out there. There is only one out of the
3 three that I could even tell you that -- and that is
4 Brumbelow, Terry Brumbelow is the only one. That's
5 because I knew Terry and I have known him a lot since
6 that period of time because we have worked together
7 quite a bit.

8 I know I possibly could have gone out there
9 with Brumbelow, but that would have been the only
10 one.

11 BY MR. GICALE:

12 Q Do you recall whether the meeting with the
13 Governor on the 4th was in the morning or the
14 afternoon?

15 A It was in the afternoon.

16 Q Do you recall whether you went out the same
17 day --

18 A No.

19 Q -- to view Maple Creek Farm?

20 A No. We did not go out the same day, no.

21 Q As this memo indicates, Choate claims to
22 have talked to you the following morning a.m.

- 1 A Yes.
- 2 Q Do you recall going out to Maple Creek
3 Farms the very next morning?
- 4 A No. I did not go out there that day, and
5 to my recollection --
- 6 Q That day, you did not go out there the day
7 of the meeting?
- 8 A I did not.
- 9 Q Did you go out there the next morning?
- 10 A I'm almost positive I didn't. You are
11 talking 10 years. I know all this happened within a
12 period of four weeks. Everything we are talking
13 about here happened within a period of four weeks.
14 That's the best I can do for 10 years.
- 15 Q You previously testified that you did not
16 come to a decision to remove these people,
17 Mr. Dobbins and Mr. Townsend, until after you had
18 seen the property at least twice.
- 19 A No. Once, maybe twice.
- 20 Q And after you had consulted with
21 Mr. Saltzman --
- 22 A Dr. Saltzman and Jerry Hill. I guarantee

- 1 you, if it was the very next day, I guarantee you two
2 people I talked with is one, Jerry Hill, and the
3 other one was Dr. Saltzman, because I would have
4 wanted Dr. Saltzman, even though I was the
5 administrator and the way the agency ran at that
6 time, I would run anything past the director on a
7 decision like that.
- 8 Q While you might have had time to talk to
9 them, clearly you wouldn't have had time to go out to
10 Maple Creek Farms?
- 11 A I don't think so. It is only about a
12 10-minute drive from Little Rock. It was a couple or
13 three days later. Obviously I missed this one from
14 about a month.
- 15 Q Let me show you what is marked DKS 013281
16 and 282. It is a memorandum dated March 11, 1986
17 from Jim Shelby through Bill Teer to you regarding
18 the transfer of files --
- 19 A That one I know about.
- 20 Q -- files and responsibilities.
- 21 A I have already reviewed that.
- 22 Q You received a copy of this document?

1 A Yes.

2 Q The purpose of this document was to do
3 what?

4 A To more or less document that we had taken
5 care of this, that everything was done and I guess
6 these are the people who we appointed to take their
7 place.

8 Q When you say "everything was done," that
9 Mr. Dobbins would be succeeded by Mr. Brumbelow,
10 Mr. Townsend would be succeeded by apparently
11 Mr. Accord, Mr. Jenkins would be succeeded by
12 Mr. Farris.

13 A Yes.

14 Q This memo, was this produced close in time
15 to the time that the decision was made?

16 A Yes. To me, this, I guess, was what I was
17 going on, because I had this memo. I had this memo.

18 MR. COLE: When you say what you were going
19 on, you mean in your recollection of the timing of
20 the events?

21 THE WITNESS: Right. My recollection was I
22 didn't do it the next day.

50

1 BY MR. GICALE:

2 Q Is it your recollection, then, that you
3 informed these individuals, Dobbins, Townsend and
4 Jenkins, that you would be removing them on or about
5 March 11th, the same day that this memo was written?

6 A Again, you are going on recall. All I can
7 tell you is how I normally operate. I don't think I
8 operated any differently then. If I am going to
9 remove you, I am not going to tell you you are
10 removed and make you sit there and be ineffective
11 for -- that would have been eight days. I would have
12 removed you, had the other people ready to move in so
13 that there was a smooth as possible transition.

14 Q So you believe, based on the way you
15 normally operated, that you would have conveyed the
16 reassignment to them and within a few days this memo
17 would have been written?

18 A Yes. To me that is poor management, to put
19 somebody in a position of trying to regulate someone
20 and you have removed them, for whatever the cause.

21 Q I am just attempting to reconcile, then,
22 this date of March 11, '86 and perhaps if you told

1 them several days before, which might be March 9th or
2 March 8th, reconcile why Janice Choate might have had
3 the impression that you had removed these three men
4 on May 5th, 1986 --

5 MR. COLE: March 5th.

6 THE WITNESS: The best I can tell you, my
7 recollection is that I didn't do it that quickly, but
8 knowing Janice and how thorough she was back then, I
9 could have done it within that period of time. I
10 don't usually move that quickly.

11 I will lay you odds. I know myself well
12 enough. It was quite obvious that we weren't going
13 to get anywhere with Lex doing the job out of that
14 meeting. We never got focused or anything. So --
15 but I still don't think I did it that quickly.

16 BY MR. GICALE:

17 Q It would have been very difficult for you
18 to have done it that quickly based on what you recall
19 you did prior to coming to that decision, and that is
20 to say you at least went out to look at the property
21 once, maybe twice.

22 A Yes. Keep in mind, the only reason I went

1 out to look at the property was, number one, to meet
2 the new person he had over to listen to him tell us
3 what they were going to do.

4 Q You had agreed to do that?

5 A Right, I agreed to do that. I think we
6 agreed to get somebody from the University of
7 Arkansas involved. We were working with -- when we
8 have a problem, we will bring in Maury Rutledge or
9 somebody off his staff at the University of Arkansas
10 in Fayetteville.

11 I think we probably brought them in at some
12 point. Looking at that property would have had
13 nothing to do with my decision on removing the
14 sanitarians. The property would have had nothing to
15 do with it.

16 The only thing that would have had to do
17 with my making a decision on removing a person was
18 whether or not I thought we had gotten to the point
19 where we could not bring the parties together to
20 focus on the problem, which was not our employees but
21 the land. Once I got to that point that I didn't
22 think our employees that we presently had in there,

1 through no fault of their own, could do it, then I
2 would remove them, yes.

3 But it would not have turned -- my decision
4 would not have turned on the land.

5 Q In any event, today earlier you testified
6 that --

7 A I did go out there.

8 Q You waited at least until you went out
9 there --

10 A I thought I did.

11 Q -- and you had a chance to consult with
12 Hill and Saltzman.

13 A I consulted with Hill and Saltzman when we
14 came back, because that was such a strange meeting.
15 We had just gotten our lunch eaten by this guy and
16 accusations and accusations thrown at Dobbins. We
17 didn't wait until when I went out to Maple Creek
18 Farms with us. Saltzman did not go out there. It
19 was just Jerry. I know Dr. Saltzman did not go. It
20 was just Jerry and me.

21 Q Is your position now that maybe you did
22 make a decision that quickly, the next morning?

1 A Okay.

2 Q Or is it otherwise?

3 A My recollection, I will stay with --
4 because you are asking me from 10 years, without any
5 paperwork before me -- my recollection of what I told
6 you at the very beginning is the best I have on it.
7 That's the best I have.

8 Q Your recollection is that you probably went
9 out to the property once, maybe twice, and then you
10 had a discussion with Hill and Saltzman and then you
11 decided to have a meeting with Dobbins and Townsend
12 and Jenkins.

13 A Yes.

14 Q Quite clearly, that would have taken more
15 than the afternoon.

16 A We could have done it. I'm not telling you
17 we couldn't have. We could have done it. I think
18 the meeting was 1:30 or so in the afternoon. We
19 could have the next morning gone out to Maple Creek
20 Farm. We are talking a 10-minute drive from the
21 Health Department, 10- or 15-minute drive, max. And
22 the meeting in the trailer and the drive-through

1 didn't take any more than two, 2-1/2 hours.

2 Q Let's assume for the moment that you did
3 talk to them that afternoon, March 4th, '86, and you
4 went on to the property March 4th or the morning of
5 March 5th. You testified it would not have been your
6 practice if you arrived at a decision to wait from
7 March 5th, '86 to March 11th, '86 or within a few
8 days prior to that to let Dobbins and these other
9 people know that they were going to get transferred?

10 A No. If I made a decision, at the point in
11 time when I made a decision that we are not getting
12 anywhere on getting this land sewered with the
13 gentleman that we have working on it, then I would
14 have gone ahead and asked Dr. Saltzman, this is what
15 I want to do, do you have any problems, he said no.
16 Whatever it was he said no, he didn't have any
17 problem. Then I talked to Jerry and we set the
18 meeting up. I would have told them within a day,
19 yes.

20 Q Looking at this memo of March 5, 1986, it
21 appears, based on Choate's recollection of the facts,
22 that a decision was made fairly quickly to remove

1 these people from these positions.

2 A Yes.

3 Q It is literally the morning after an
4 afternoon -- a March 4, '86 meeting. So, it seems to
5 suggest some decision was made and some discussions
6 were had prior to the time that she talked to you on
7 March 5th, '86.

8 Did Choate or Rasco or anybody from the
9 Governor's office suggest to you that you should
10 remove these people?

11 A No. Like I said, if I talked to Choate and
12 to Rasco and I think I told you that I probably
13 talked with them a couple times because that would
14 have been normally the way I worked, but nothing
15 significant sticks out in my mind of talking with
16 them, because there wasn't anything to it. This was
17 routine. This would have been, hey, I went out
18 there, I did what -- they know I am not an expert on
19 septic tanks. They know if I am going out there, I'm
20 not going to see anything.

21 I went out there, listened to them, I
22 talked with their people, this is what we think. I

1 probably called them whenever we made the decision to
 2 remove the three of them and said, we are going to
 3 remove them. I can promise you Rasco never told me
 4 to remove them, Choate never told me and the Governor
 5 never told me to remove them. I talked to the
 6 Governor one time about it. I could have talked with
 7 the other two ladies a maximum of two times.
 8 Heptachlor came up after that and I didn't do
 9 anything except for flicking milk.

10 MR. COLE: May I ask one question. The
 11 questions have been regarding the discrepancy between
 12 your recollection and Ms. Choate's memorandum. Is it
 13 possible it was apparent to you in the meeting in the
 14 Governor's office that there was a problem between
 15 Mr. McDougal and Mr. Dobbins, based on Mr. McDougal's
 16 statements, and that therefore he would have to be
 17 reassigned and that therefore you could have
 18 indicated to Ms. Choate the next day, even though the
 19 process took a few days to work through?

20 I realize you don't have a specific
 21 recollection and a lot of what you have testified to
 22 is based on your recollection of how you normally

1 handle these situations.

2 THE WITNESS: Also, the best I can piece
 3 together from 10 years ago, we are talking about a
 4 one-month period out of my life. I didn't deal with
 5 Maple Creek Farms any longer than that. We just
 6 didn't.

7 MR. COLE: I don't want the impression left
 8 on the record that you haven't given accurate
 9 testimony here.

10 THE WITNESS: I haven't lied to you all at
 11 all. I'm not even worried about that. My
 12 recollection is exactly what I'm giving you.

13 There was no doubt in my mind when I left
 14 that meeting with the Governor that McDougal and
 15 Dobbins working together were going to be slim and
 16 zero. He called him everything he could think of.
 17 He made wild accusations that he never backed up
 18 either in that meeting or in later meetings with me
 19 or with anybody. If he made them to the Governor's
 20 office, they never let me know, as to what
 21 Mr. Dobbins had on me. Dobbins and I in fact have
 22 laughed many times over the years, what do you really

1 have on me, that type of thing.

2 You would have to see this guy. I have
3 been in a lot of meetings where people go crazy, but
4 this guy went just bananas, just like a rocket went
5 off.

6 MR. COLE: That's why I asked the
7 question. You have been testifying about your normal
8 practices. Clearly, this was not a normal meeting.
9 It was a meeting with the Governor and a meeting in
10 which Mr. McDougal acted in a very unusual manner.

11 THE WITNESS: I can truthfully say after
12 27-1/2 years with the government, he was the only
13 person that said that I was crooked and that someone
14 had something on me. I couldn't remember a meeting
15 like that.

16 BY MR. GICALE:

17 Q Mr. Cole suggested that perhaps you might
18 have indicated that based on the way the meeting went
19 that it might be prudent to remove Dobbins. But I'm
20 going to direct your attention again to the March 5,
21 '86 memo. The second line seems pretty definitive.
22 It says "These three men have been removed from these

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1 jobs." That is not speculation that they might.

2 A I guarantee you, she wrote this memo on the
3 5th --

4 Q This is Ms. Choate?

5 A Yes. She wrote this memo on the 5th. I
6 would have had to call them in. Because I called
7 them in and did it to their face. I can tell you
8 almost the room I met with them in. It was not in my
9 office. I know that. I met on their turf, on their
10 end of the hall. I can see that to this day. I can
11 almost guarantee you it was in the morning. I would
12 like to see the memo that I wrote, because I know
13 part of my recollection was I did not remember what
14 was said about Tom until I read the memo the other
15 day about the sanitarian from White County. I had
16 forgotten all about having to do a reference check on
17 him.

18 I don't know if that was before or after.
19 To be honest with you, I didn't pay any attention
20 when I read it.

21 Q Subsequent to removing the --

22 MR. COLE: Do you want to look at a

1 document before we continue?

2 THE WITNESS: I would like to look at that
3 one, out of curiosity.

4 MR. COLE: Is that one Mr. Gicale
5 previously showed you?

6 THE WITNESS: Yes.

7 MR. GICALE: Off the record.

8 (Discussion off the record.)

9 BY MR. GICALE:

10 Q I'm going to show you another document
11 marked DKS 013412 through 413. It is dated
12 3/21/86. It says "Tom B" at the top. If you could
13 just take a moment to review this.

14 (Witness examined the document.)

15 A Okay.

16 Q This memo once again is not your own memo.
17 This is a memo, someone else's memo. This was
18 Choate's.

19 MR. COLE: Handwritten notes.

20 THE WITNESS: Right.

21 BY MR. GICALE:

22 Q Handwritten notes. In these notes is a

1 quote of a conversation -- she appears to be
2 referring to a conversation you may have had with
3 McDougal.

4 (Witness examined the document.)

5 I want to direct your attention
6 specifically to the quoted part of this.

7 A "He would fire Lex Dobbins." That was
8 probably me out there.

9 Q Read the quote.

10 A "Don't want to get political, but if we had
11 another governor, he would fire Lex Dobbins. This
12 kind of man can defeat Bill Clinton."

13 I don't remember this, but I can guarantee
14 that is in the McDougal line of just rapid firing on
15 somebody.

16 Q You don't remember whether he said this; it
17 is possible that he did? Is that your testimony?

18 A If he said it, it wasn't in the meeting
19 with Clinton because of the way it was said here. I
20 would have remembered that if he challenged the
21 Governor like that in front of him. If he made this,
22 the only other time I met with him was out at Maple

1 Creek and Castle Grande. But that sounds very
2 plausible.

3 Q That he said that and that you repeated
4 that to Ms. Choate?

5 A Yes. That sounds very plausible that he
6 would say that. She is saying I have another
7 complaint on him from somebody and that this guy made
8 basically the same comment. We were chasing rabbits
9 at this time. We were taking a lot of time.

10 Q Do you recall whether McDougal said the
11 rest of these things, that Lex Dobbins wasn't going
12 to defeat BC, he didn't spend 60,000 on him since he
13 was 18 to sit back and watch a crazy, psychotic
14 person like Dobbins defeat BC?

15 A To tell you I actually remember him saying
16 that, I can't. The psychotic part and hearing you
17 read it back to me, yes. If I were a betting man, he
18 said that, but I can't tell you I definitely
19 remember.

20 Q I will show you what is marked for
21 identification --

22 MR. GICALE: Off the record.

1 (Discussion off the record.)

2 BY MR. GICALE:

3 Q Marked for identification as GD 0195, a
4 letter dated March 25th, 1986.

5 A Yes, I remember this one.

6 MR. GICALE: Off the record.

7 (Discussion off the record.)

8 BY MR. GICALE:

9 Q That's a memo or a letter dated March 25,
10 1986 from you to McDougal.

11 A Yes.

12 Q That was kind of an update. Was that the
13 letter getting back to him after going out to see the
14 property?

15 A My best recollection, it is. I will tell
16 you, the first time I saw this letter was back when I
17 was pulling everything together when the reporter was
18 calling me. I figured the Freedom of Information,
19 people would want it, they would eventually get
20 everything I had, so I went back and got all the
21 information I had.

22 I remember looking at this time, it is the

1 only letter that really bothered me when I first read
2 the first page, because after 10 years you kind of
3 wonder if you did something that you don't remember.
4 I read this and read the part about apologizing for
5 the delay and thought, why am I apologizing to this
6 guy.

7 This was during the milk contamination that
8 I was talking about with Heptachlor. I was going to
9 get back to him. Apparently I hadn't. The word is
10 that I had not. This was right in the middle of
11 this. I fired this thing off and went back to work.

12 Q This was -- this letter was an attempt to
13 update him on the transfer of the file and documents
14 to other people?

15 A That was basically it. There is nothing to
16 it.

17 Q And then I'm going to show you what is
18 marked for identification as DKRT 800609-A. It is a
19 memorandum dated April 29th, I believe that is '86,
20 from you to --

21 A This is from Jerry Hill.

22 Q -- to Janice Choate. I think you were cc'd

1 on this memo along with Mr. Saltzman.

2 A Yes.

3 Q This was an update Mr. Hill was giving to
4 Janice Choate on Maple Creek Farms.

5 A Yes.

6 Q You were made aware of this update as well?

7 A I have a carbon copy of it and I have it in
8 my files, I believe.

9 Q And then finally I'm going to show you what
10 is marked for identification as DKRT 80060. It is a
11 memo dated June 26, 1986 from Janice Choate to the
12 Governor regarding Maple Creek Farms.

13 Again, this is not your memo, but it does
14 reference a conversation apparently Ms. Choate had
15 with you. Could you just look at this for a moment
16 to see if this refreshes your recollection with
17 respect to your conversation with her.

18 (Witness examined the document.)

19 A I don't recall this. I have something in
20 there from Maury Rutledge. I have a letter that I
21 turned over to you all today from Maury Rutledge.
22 Everything you are showing me, even though I don't

1 recall it, it is exactly what we would do today.

2 Q Does it at least refresh your recollection
3 that you had subsequent conversations with Choate
4 about the status of your dealings with McDougal and
5 Maple Creek?

6 A I think I talked with him maybe two or
7 three times, once or twice, not very much. Like I
8 said, I just didn't.

9 Q Did you receive any further inquiries from
10 the Governor on the status of this project?

11 A No. To my knowledge, I never -- I know I
12 never received another call from the Governor. To my
13 knowledge, Janice Choate nor Carol Rasco never -- we
14 were working on it. It would be just like a
15 normal -- I talked with Choate. She was my main
16 contact with the Governor's office at that time. I
17 would talk to Choate an average of twice a day on
18 some matter. I would say during this period of time,
19 Maple Creek didn't come up as, hey, we are doing
20 this, this and this as a matter of updating. I will
21 not tell you we didn't. But I don't recall it.

22 With Rasco, no. I worked with Rasco during

1 that period of time, she was my main contact on
2 Heptachlor, but not on Maple Creek.

3 Q Since this time in June of 1986, have you
4 had any conversations with the Governor or Choate or
5 Rasco about this incident?

6 A Never with the Governor. Like I told you,
7 I talked with Choate this past week. Rasco, no, I
8 have not talked with Rasco directly on this matter.

9 Q Well, indirectly through a representative
10 of Rasco's or someone else?

11 A Yes. I got a call. I was told that a
12 reporter was going to call me. That was Peter Yost.

13 MR. COLE: Associated Press reporter.

14 THE WITNESS: Washington Post was how he
15 identified himself when he talked with me.

16 BY MR. GICALE:

17 Q Who told you that a reporter was going to
18 call?

19 A Rasco got ahold of my son. It was a
20 Saturday. She said, tell your dad that Mr. Yost is
21 going to call you about Maple Creek Farms. When I
22 got in, I asked did she leave a telephone number for

1 me to call back and he said no. So, Yost called me a
2 week or so later. That was it.

3 Q When would this have been?

4 A It would be about the time -- again, it
5 would be about the time of the memo from Brumbelow to
6 me, which was in the summer, so it would be about a
7 year and a half ago, because I'm almost positive I
8 had been canoeing that day. I have gone canoeing one
9 time in the last three years.

10 Q Have you maintained contact with Rasco over
11 the years?

12 A No. The only other conversation I have had
13 with Carol Rasco since the Governor was elected
14 President, I took her out to lunch thanking her
15 before she left the state. We were just friends. Me
16 and another person from the Health Department took
17 her out to lunch. Then she called me on my 50th
18 birthday to tell me she hadn't forgotten. That was
19 the last conversation I had with her. I am 52 now.
20 So, that has been over two years.

21 Q So, the conversation a year and a half ago
22 actually was not a conversation she had with you, it

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1 was with your son?

2 A Yes. My son was living at the house at
3 that time.

4 Q Was there anyone else from the White House
5 or representative of the President that you have
6 talked to with respect to this issue --

7 A No.

8 Q -- since 1986 when you were involved with
9 it?

10 A No.

11 MR. GICALE: Off the record.

12 (Discussion off the record.)

13 (Recess.)

14 BY MR. GICALE:

15 Q Earlier, Mr. Butler, you indicated that
16 Mr. Yost did call you. This occurred after your son
17 received a phone call from Carol Rasco indicating
18 that Mr. Yost would be calling.

19 A Right.

20 Q Did you subsequently -- you did talk to
21 Mr. Yost, I believe you testified?

22 A Yes.

1 Q Did you relate to him that when Clinton
2 first called you, that he said to you that I think
3 some of your employees may be messing with this
4 friend of mine who is in land development? Is that
5 the quote you gave Mr. Yost?

6 A Yes.

7 Q Was that your recollection of what Bill
8 Clinton said to you back in 1986?

9 A That's paraphrasing it, but that is pretty
10 close.

11 Q Now, you also said in that article that --
12 in the article published, you are quoted as saying
13 you never got your arm twisted, which is what you
14 testified today; right? That's what you said to
15 Mr. Yost?

16 A Right.

17 Q Did you also tell Mr. Yost -- this would
18 have been in 1994 -- that Clinton told you,
19 characterized McDougal as a person who "has been a
20 contributor, has been a supporter of mine since I ran
21 for Congress and he has never asked me for anything
22 before"?

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1 A That's almost an exact quote. He said, let
2 me lay my cards on the table. I thought he was being
3 very honest with me.

4 Q At any time did you ever feel pressured by
5 Mr. Clinton or any representative of his staff in
6 1986 to either remove Mr. Dobbins and the other
7 sanitarians or to take a different course of action
8 with respect to Maple Creek Farm?

9 A No, because I have been told to do things
10 before by them. I know when I am being told or not
11 being told, and I was never told to do anything.

12 MR. GICALE: I have nothing further.

13 EXAMINATION

14 BY MR. COLE:

15 Q I would like to ask you a few questions
16 about the matters you testified to this afternoon.

17 Going back to the telephone call from
18 then-Governor Clinton in which he asked you if you
19 would attend a meeting with Mr. McDougal, I believe
20 you testified that either during that call or shortly
21 thereafter in a discussion with the Governor's
22 secretary you indicated that you wanted to bring

1 Dr. Saltzman and Dr. Hill with you to the meeting; is
2 that correct?

3 A Yes. Mr. Hill.

4 Q Dr. Saltzman at that time was the director
5 of your department?

6 A Yes.

7 Q And Mr. Hill reported to you he was your
8 immediate subordinate in the department?

9 A Yes.

10 Q Essentially you told either the Governor
11 during that telephone call or told the Governor's
12 secretary for her or him to pass on to the Governor
13 that you wanted to bring other professional staff
14 from your department to the meeting?

15 A Yes, I did.

16 Q There was no objection to your doing so?

17 A No, none whatsoever.

18 Q Then when you arrived for the meeting at
19 the Governor's office, I believe you testified that
20 Governor Clinton had one of his staff members
21 present, Ms. Choate, during the meeting; is that
22 correct?

1 A Yes.

2 Q So am I correct in understanding that this
3 meeting was handled in essentially the normal manner
4 and that staff was present; this wasn't a secret
5 meeting or anything like that with Mr. McDougal?

6 A No. This was just a routine meeting.

7 Q It was a meeting in the Governor's office
8 but otherwise it was routine?

9 A It was a routine meeting with the
10 Governor.

11 Q There was staff from the Governor's office
12 and staff from your department?

13 A Yes.

14 Q Have you had other meetings with developers
15 about their projects and the regulation of those
16 projects, real estate projects?

17 A Yes. He could have gotten the same meeting
18 by calling me or by calling the director or calling a
19 local representative or county judge. I would have
20 done the same thing, I would have sat down and met
21 with him. It is silly to say you are infallible and
22 you didn't make any mistakes and your employees

1 didn't.

2 Q Even though Mr. McDougal chose to
3 apparently go through Governor Clinton, with whom he
4 was acquainted, he could have received the same
5 treatment by going directly to you or by going
6 through others in state government?

7 A Yes. He could have taken his choice.

8 Q Your testimony is the result would have
9 been the same as far as his treatment?

10 A Yes. Even all the way to Maury Rutledge
11 and inviting them up on special projects, a lot of
12 times that -- I have utmost confidence in certain
13 sanitarians as far as their knowledge. I told you I
14 think previously when I go into a meeting, I am not
15 the expert. I generally have somebody I have utmost
16 confidence in.

17 I will look at them, and generally, calling
18 Maury Rutledge in from the University of Arkansas, he
19 just is an outside source that is going to tell me
20 what I basically already have confidence is the
21 fact. So, yes, we do one, two, three, four,
22 basically.

1 Q In fact, you testified it was your decision
2 to reassign the sanitarians that were involved with
3 the McDougal project.

4 A Yes.

5 Q I believe you also testified that
6 immediately after the meeting in the Governor's
7 office on March 4th, Governor Clinton asked you to
8 remain behind for a moment and spoke with you
9 privately; is that correct?

10 A Yes.

11 Q And at that time --

12 A Jerry Hill might have been there. I don't
13 remember. Dr. Saltzman was not, I know, because he
14 went on out with McDougal. He and McDougal struck up
15 their conversation again.

16 Q So, Mr. McDougal was not present?

17 A No, he was not present for it.

18 Q What did Governor Clinton tell you at that
19 time?

20 A He said, I want you to stay afterwards
21 because I have something else I want to talk to you
22 about. As soon as McDougal cleared the door, he

1 said, Tom, I don't have anything else to talk about,
2 I just wanted to tell you that I apologize for the
3 way he acted, I had no idea he would act this way.
4 He said, I have never seen him act this way. So, he
5 said, you go do what you have to do and you will not
6 hear another word from me, period.

7 Q So, was it your understanding from that
8 comment that the Governor was telling you to proceed
9 in the normal manner as you felt appropriate and he
10 would not interfere or second-guess your actions?

11 A Do my job. Yes.

12 Q Is that what you in fact did?

13 A Yes.

14 Q I guess there still could be a question as
15 to whether, subsequent to that meeting, Mr. McDougal
16 received any special treatment in his Maple Creek or
17 other developments.

18 I wanted to follow up on something you
19 mentioned early in your testimony about 20 lots out
20 of 200. What did you mean by that statement?

21 A When I started getting calls from Yost and
22 some of the other press who had picked up on it, the

1 FBI also came by and talked to me. Terry Brumbelow,
2 who is over the sewage tank program, this was just
3 one of many developments, and when you get to a
4 certain point, I don't go back and follow up on our
5 people and say, what did you do here, give me a
6 weekly report on this. I knew we were still working
7 on Maple Creek Farm, but I didn't know how many we
8 had approved.

9 So, I thought, it is going to look really
10 bad if we have approved a large number. So, I asked
11 Terry, and he said we have approved approximately 20
12 and we have turned down another 20. It is almost a
13 50/50 split. We are still having troubles with it.
14 We were able to get some of the lots sewerred.

15 The only other thing I remember, a
16 conversation specifically about Maple Creek, which I
17 did not relate to you, was there was a local Senator
18 who his dentist owned a house out there, and every
19 time he would go to the dentist's office, I would get
20 a call from the Senator saying that Dr. X -- I cannot
21 remember his name -- has not been connected to the
22 sewer.

1 I remember working on that three years
2 between '86 and '94. We couldn't even get this guy
3 on sewer.

4 Q So, essentially you were trying to get
5 Mr. McDougal to do what he had indicated he would do
6 in the memorandum of agreement, which was to provide
7 a community sewer system, and he never did so?

8 A That's correct.

9 Q In the interim or up to the present, I
10 believe you testified you were evaluating -- your
11 professional staff was evaluating each lot on a
12 case-by-case basis to decide whether a septic tank or
13 other?

14 A Right. Even within the last six weeks, the
15 new owner of the property, he is in the process of
16 trying to get a grant to put a sewer system in,
17 resewer or sewer the rest of the lots.

18 But in the meantime, he is trying to sell
19 lots. He would call me about one, and we turned that
20 one down. It is just business as usual.

21 Q To the best of your knowledge, then, those
22 lots in the Maple Creek Farms development have been

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1 handled in accordance with the recommendations of
2 your professional staff in terms of whether they
3 would be approved or not approved for septic systems?

4 A Yes. I mean, 20 lots in almost 10 years,
5 that is hardly two a year. You are not going to make
6 a whole lot of money. This was -- for Arkansas, this
7 was a fairly large development. They just didn't do
8 anything.

9 Q You have said that several times during
10 your deposition, that we didn't do anything. By that
11 do you mean that you didn't do anything to try to
12 help this development or to help Mr. McDougal or
13 treat this development differently than others that
14 you regulated?

15 A No. The meetings weren't any different.
16 If you ask anybody on our staff what do I know about
17 a septic tank, I know what I have gleaned from
18 there. I have been out 20, 25 times. I do it
19 probably a couple times a year, maybe sometimes not
20 even a couple times.

21 Sometimes a representative will say, will
22 you come up here and go over the land with me and

1 John Q. Citizen, and he understands I don't know
2 anything. I go up there and go tromping through the
3 woods and I nod and have a sanitarian beside me. He
4 has generally prepped me before I go there. I never
5 commit on the spot. I do not commit on the spot.

6 Q You go in with an open mind, listen to the
7 property owner's position?

8 A I listen to them. I go in with an open
9 mind understanding that our staff could have made a
10 mistake. But I have already heard from our staff.
11 Sometimes I rule against the staff. A lot of times I
12 rule with our staff. We don't make any money by
13 turning lots down. But sometimes people think we do,
14 I think.

15 Q The inspectors that were reassigned to
16 handle Maple Creek Farms after 1986, do you have any
17 reason to believe that during Governor Clinton's
18 administration they gave any special preference or
19 treatment to Mr. McDougal?

20 A No. In fact, the strange thing about this
21 was when I referred to a meeting or comment that
22 Mr. Yost had said. Someone had put an article in the

1 paper after this article Yost came out with that said
2 that I had transferred the employees.

3 I vaguely remembered that I transferred
4 them. Well, Yost called me, and I could tell what he
5 was getting at is that you removed these guys. So he
6 immediately called Lex Dobbins. I talked with Lex, I
7 said, it looks strange, Brumbelow has your old job.
8 Lex reminded me, he said, I was the one who
9 recommended Brumbelow and he wasn't the first choice,
10 the job was offered to another gentleman in Faulkner
11 County by Mr. Teer and he turned it down and then
12 Brumbelow got the job. Nobody did anything.

13 Q In a sense, Mr. Dobbins was able to choose
14 his successor; it is not a situation where
15 Mr. McDougal chose the person who was put in to
16 regulate the project?

17 A Let me make sure you get this straight.
18 Dobbins was at one point over the whole septic tank
19 program.

20 Q "Chose" may have been the wrong word.

21 A He recommended that Brumbelow get the
22 supervisor's job or administrator's job for the

1 septic tank program. This is him telling me. I
2 don't remember it. It is just what he told me
3 happened.

4 Q In fact, when you testified here today
5 before you had seen any of the documents, you
6 recalled that you didn't make this reassignment
7 decision until sometime perhaps some weeks after the
8 meeting in the Governor's office; is that correct?

9 A Yes.

10 Q And I believe you also testified that you
11 had no contact or recall no contact with Governor
12 Clinton or anyone on his staff between the time of
13 the meeting in the Governor's office and the
14 reassignment; is that correct?

15 A No. I definitely didn't talk with the
16 Governor, and the only conversation I would have had
17 with -- I am 99 percent sure I did not talk to Rasco
18 about this. If I talked to anybody, it would have
19 been Choate. In talking to Choate, I'm sure I would
20 have called her to let her know I'm fixing to do
21 this, if you get calls from Senator such-and-such and
22 representative, let them know why I am doing it so it

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1 doesn't come back on me.

2 Q You don't have any recollection of the
3 governor or anyone from his office calling you and
4 telling you what to do?

5 A That I do have a recollection. Nobody from
6 the Governor's office or the Governor ever called me
7 and told me to do anything to Lex Dobbins. I
8 guarantee you they didn't know the names of the other
9 two. The only reason they knew Lex Dobbins's name is
10 because of the accusations made.

11 MR. COLE: I think we have perhaps
12 exhausted this topic. I am sure you have one or two
13 more questions.

14 EXAMINATION

15 BY MR. GICALE:

16 Q Just to clarify something. At one point in
17 your testimony, you said that you ultimately came to
18 the conclusion that these people should be removed
19 after you went to visit the property and after you
20 consulted with Saltzman and Hill.

21 A Yes.

22 Q And then at some later point you said it

1 didn't really matter whether you saw the property or
 2 not; that wasn't a factor in coming to this
 3 decision. I just want to be clear on why you
 4 ultimately decided to make the decision to remove
 5 Dobbins.

6 A Okay. The reason to remove Dobbins was we
 7 weren't getting -- when you go into a meeting and the
 8 only thing you talk about is a sanitarian's
 9 personality and that the sanitarian -- the reason
 10 your land is not being approved is because the
 11 sanitarian is out to get you -- that was never clear
 12 why he was out to get him and what he would have made
 13 by turning down the property.

14 This is not uncommon with a land developer,
 15 that they tell us the sanitarian is out to get them.
 16 The strange thing that I always have to deal with and
 17 the reason I go in there believing our sanitarians is
 18 they can't make any money by turning down lots.
 19 There are no percentages in it.

20 So when a guy is throwing this off at you
 21 and you get to a point when every meeting and every
 22 letter and every phone call we are dealing with

1 personalities, I will remove it. He is not the first
 2 one and he wasn't the last one. I have done it
 3 before, where without anybody saying -- without even
 4 a representative or Senator or county judge being
 5 involved, or the Governor.

6 It is just when it gets to the point that
 7 you are coming to meet with me, we are not getting
 8 anywhere. So we are going to remove this and then
 9 you will have a heck of a time coming back two months
 10 from now and telling me the new sanitarian is out to
 11 get you. That is just not going to happen.

12 Q So, it was your -- you felt that there was
 13 a personality clash between the two?

14 A There is no doubt, yes. I know Lex. I
 15 have known Lex for years. He is very, very good at
 16 his job, but he is also -- how do you say it. He
 17 is -- he can get on people's nerves, is the best way
 18 I can put it. He is not Mr. Tact at times. To be
 19 quite frank with you, a lot of times I don't want him
 20 to be Mr. Tactful, but sometimes you have to be, and
 21 he wasn't going to be able to work this one out.

22 Q Of course, Mr. McDougal wasn't exactly

1 Mr. Tactful either.

2 A But I don't have any control over those
3 folks. I can't control them liking our person. But
4 I can remove the person they don't like, and that's
5 what I did.

6 Q Now, you -- one other question. You were
7 appointed as the deputy director in 1979. Who was
8 the Governor then when you were appointed to that
9 position?

10 A I was hired by Governor Rockefeller, who is
11 a Republican. I went over to the Health Department
12 when Governor Bumpers was there. I got promoted
13 while Bumpers and Pryor were there. My last
14 promotion, Clinton got beat. Republican Governor
15 White came on board and I was promoted to deputy
16 director under White.

17 Q That was 1979?

18 A It was '79 or '80 when he got elected.

19 MR. COLE: I believe -- I am not the
20 witness here, but I think the public record shows
21 that White defeated Clinton in the 1980 election, the
22 Reagan election.

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1 THE WITNESS: Whenever Clinton got beat.
2 He was governor for two years. I was a Bureau
3 director. I got promoted when he was governor to
4 Bureau director.

5 BY MR. GICALE:

6 Q When who was governor?

7 A When Clinton was governor. I was promoted
8 basically under every governor. It had nothing to do
9 with him being governor. I was promoted under each
10 one. My last promotion was when Governor White came
11 on board, because Dr. Saltzman was appointed. I was
12 acting administrator, and when he came on board, he
13 asked me to continue on with the job. I worked
14 through the white administration, and all the
15 administrations since them, in my same function.

16 BY MR. GICALE:

17 Q One last question.

18 A Okay.

19 Q The meeting of March 4th, when you arrived,
20 you said that you waited in a room outside the
21 Governor's office --

22 A The foyer.

1 Q -- for 40, 45 minutes, something like
2 that. Now, McDougal was there waiting with you, or
3 was he inside?

4 A He was there. That's why I said it was
5 such a -- he and Saltzman -- there is a post in the
6 center of the foyer. They were kind of to one side.
7 We were against the wall. It was like me to you,
8 Jerry and I carrying on one conversation.

9 Q I know you testified they did talk.

10 A The whole time. When we got in there, he
11 was there.

12 Q He was already there?

13 A He was sitting out there waiting, cooling
14 his heels just like us.

15 Q There was somebody else in the Governor's
16 office?

17 A Yes. That's how he operates. It is one
18 after another. If you get an afternoon meeting, you
19 are going to be anywhere from 45 minutes to an hour
20 and a half.

21 Q McDougal was in the foyer?

22 A Yes, when we got in. Saltzman went up to

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1 him. We knew who he was. We had seen pictures, but
2 we didn't know who he was. Saltzman went up and we
3 shook hands and Saltzman started talking with him.

4 MR. GICALE: Nothing further.

5 EXAMINATION

6 BY MR. COLE:

7 Q There was nothing that you saw either when
8 you arrived at the Governor's office or after you
9 went into the Governor's office to indicate that
10 Mr. McDougal had spoken with Governor Clinton before
11 you began that meeting?

12 A No.

13 Q Your impression was Mr. Clinton was in
14 other meetings and Mr. McDougal was waiting the same
15 way you were?

16 A Yes. He was waiting. We shook hands and
17 waited.

18 MR. COLE: Nothing further.

19 (Whereupon, at 5:45 p.m., the deposition
20 was concluded.)

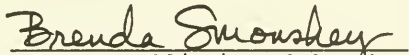
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TOM BUTLER

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

**DEPOSITION OF JANICE DEAN CHOATE
IN RE: S. RES. 120**

TUESDAY, DECEMBER 5, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JANICE DEAN CHOATE, called for examination pursuant to notice of deposition, at 12:30 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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EXHIBITS

Janice Dean Choate DEPOSITION NUMBER	IDENTIFIED
Choate Exhibit 1	43, 277

P R O C E E D I N G S

Whereupon,

JANICE D. CHOATE

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Please state your name for the record.

A Janice Choate.

Q Could you please state your present business address.

A 5800 West -- I have to think -- 10th, I believe it is, Little Rock 72204.

Q Where are you currently employed?

A The Health Department, the Arkansas Health Department, bureau of alcohol and drug abuse prevention.

Q What is your business phone number there?

A 501-280-4508.

Q What is your position?

A I am the director of the Drugs Don't Work program.

Q How long have you been employed in that position?

A Well, I have been at the alcohol and drug abuse prevention office for a little over seven years. They have just assigned me to this job in January, this position in January.

Q What was your position prior to January of this year?

A Director of the governor's partnership in substance abuse prevention.

Q How long did you hold that position?

A Well, over six years.

Q And prior to that position?

A I was the governor's liaison for health and human service agencies.

Q How long?

A 2-1/2 years.

MR. COLE: What years were those?

THE WITNESS: I was on the staff, I think it was the spring, like April maybe of '85. Then I

1 went and did the governor's partnership with the
2 alcohol and drug office in like September of '87, I
3 think. I have just been with state government 10
4 years this past April.

5 MR. COLE: During the period 'April '85
6 through 'September '87, you were with the governor's
7 office?

8 THE WITNESS: Right, I was his liaison with
9 those agencies.

10 MR. COLE: Thank you. Excuse me,
11 Mr. Gicale.

12 BY MR. GICALE:

13 Q You commenced your state service in April
14 of '85?

15 A Yes. I think it was April '85.

16 Q What did you do prior to going to work with
17 the governor's office?

18 A I worked with a nonprofit agency, Arkansas
19 Advocates for Children and Family Services.

20 Q In what capacity?

21 A I worked with membership and fundraising,
22 assorted duties.

6

1 Q How long did you work there?

2 A I can't remember. It was probably three
3 years or so.

4 Q So, that would have been --

5 A It wasn't just prior to going to work in
6 the governor's office. I just don't remember the
7 years on that. I didn't even think to look it up.
8 Because I don't remember if I was even working full
9 time right before I went to work for Governor
10 Clinton. I think the year prior to that I was the
11 interim director of the child development center at
12 my church, which is a downtown Methodist church.

13 Q A year prior to working in the governor's
14 office?

15 A Yes. Probably '83, '84, end of '83 through
16 the end of '84 I think I was the interim director of
17 the child development center at First Methodist
18 downtown. Prior to that I worked at Arkansas
19 Advocates.

20 Q Arkansas Advocates?

21 A For Children and Families. It was a
22 nonprofit agency.

1 Q When did you work there?

2 A Well --

3 Q It was prior to '83?

4 A I think I was there about three years.

5 Q So approximately '80 to '83?

6 A Yes, probably. I didn't think to look any
7 of this up.

8 Q Prior to that?

9 A I don't remember. I worked as a preschool
10 teacher at Westover Hills Presbyterian Church. I
11 don't know what years that was. My youngest son was
12 three, and he is 27 now. So I worked there about
13 three years. After that I worked --

14 Q From '77 to '80 you worked at that
15 preschool?

16 A Yes, I guess. I am just having to
17 speculate on the years. I just don't remember. I
18 didn't have a full-time job off and on during a
19 couple of years in this long range of years you are
20 talking about. That was at the Presbyterian church
21 preschool program.

22 Q What is your educational background?

1 A I have -- I didn't complete college. I
2 graduated from high school in '58 and went to
3 Hendricks College the next two years and then got
4 married. My husband was at Duke Law School. I took
5 courses there. I took courses in Colorado and Rhode
6 Island. I probably have about 3-1/2 years' worth of
7 college credits, but no degree.

8 Q Your husband is a lawyer?

9 A Yes. He is a lawyer.

10 Q Practicing in Little Rock?

11 A Not anymore. He works for a university.

12 Q University of?

13 A He works for Henderson University.

14 Q Where is that located?

15 A It is in Arkadelphia.

16 Q Ms. Choate, this deposition is being
17 conducted pursuant to Senate Resolution 120. The
18 resolution establishes a Special Committee
19 administered by the Banking Committee to conduct an
20 investigation involving Whitewater Development
21 Corporation, Madison Guaranty Savings & Loan
22 Association, Capital Management Services, Inc., the

1 Arkansas Development Finance Authority and other
2 related matters.

3 Section 1(b)(3)(A) and (B) of Senate
4 Resolution 120 authorizes investigation and public
5 hearings into, A, the operation, solvency and
6 regulation of Madison Guaranty Savings & Loan
7 Association and any subsidiary, affiliate or any
8 other entity owned or controlled by Madison Guaranty
9 Savings & Loan Association; B, the activities,
10 investments and tax liability of Whitewater
11 Development Corporation and as related to Whitewater
12 Development Corporation, of its officers, directors
13 and shareholders. This will be the focus of today's
14 deposition.

15 You were requested to testify, I believe,
16 last week. This deposition is being taken in advance
17 of a public hearing which will probably occur in
18 early 1996. It is possible you could testify at such
19 a hearing.

20 We will be asking you a series of
21 questions. You are testifying, obviously, under
22 oath. If you don't understand any questions, please

10

1 let us know and we will rephrase the question. The
2 stenographer will be preparing a record of questions
3 and answers. The deposition is to be treated as
4 committee confidential until the commencement of the
5 hearings.

6 Prior to the hearings, you will receive a
7 letter from the committee telling you you may come to
8 the Senate to review a transcript of your deposition
9 and make note of any corrections in transcription on
10 an errata sheet. If you are called to testify at a
11 public hearing you will be permitted to have a copy
12 of your deposition transcript four days in advance of
13 your testimony. You may be represented by counsel.
14 I note you are not represented by counsel today.
15 Counsel may object on grounds of privilege and
16 relevance. The committee chairman may rule on
17 questions where a witness refuses to answer a
18 question.

19 Going back to the issue of reviewing your
20 transcript and making that available at the
21 committee, since you are out of town, we can attempt
22 to make some arrangements for you to review it out of

1 town so you don't have to come here to look at it.

2 Do you have any questions at this point?

3 A No.

4 Q Ms. Choate, your title, exact title between
5 April '85 and September of '87 in the governor's
6 office was what?

7 A Governor's liaison to the health and human
8 service agencies. So, I was just his --

9 Q What were your duties --

10 A I was his link to those agencies.

11 Q Which agencies?

12 A The health department and 13 human service
13 agencies: Aging, alcohol and drug abuse, rehab, DDS,
14 developmental disabilities, children and family
15 services.

16 Q As this link to those agencies, what did
17 your duties involve?

18 A I had to cover all kinds of board and
19 committee meetings that were related to any of those
20 agencies for the governor and keep him posted on what
21 was going on. And if there were any problems that
22 arose in any of those agencies, I was the person who

12

1 alerted him. And we oftentimes had to set up
2 meetings with people to meet with the governor about
3 issues of import, important things and substance. I
4 did a lot of letter writing for him. I did a lot of
5 speech making for him. I did a lot of -- I covered a
6 lot of different legislative committees for him to
7 keep him up to speed if they were related in any way
8 to Health and Human Services.

9 MR. COLE: Did you handle constituent
10 complaints?

11 THE WITNESS: Yes. I did. I got a lot of
12 those.

13 BY MR. GICALE:

14 Q Did you -- you were, I take it, one of a
15 number of people in the governor's office who acted
16 as the liaison to the various agencies?

17 A Right, to certain agencies.

18 Q Did there come a point in time in either
19 '85 or '86 when as a part of your duties you became
20 aware of a complaint or complaints from James
21 McDougal regarding the health department and Maple
22 Creek Farm?

1 A Yes.

2 Q When was it you first became aware of
3 complaints by Mr. McDougal?

4 A I don't know the time or date. I know that
5 we met sometime in '86 with the governor. I have no
6 memorandums to look on to see what exact date it
7 was. When the complaint came -- and I don't know to
8 whom the complaint came, because I don't think it
9 came to me -- we had to set up a meeting with the
10 governor and with McDougal and health department
11 people, because he was very upset and aggravated. He
12 felt that the whole department was jerking him
13 around.

14 MR. COLE: Ms. Choate, if Mr. Gicale will
15 permit me to interrupt, I notice you indicated you
16 have not reviewed any memoranda or documents to
17 prepare. We do have a number of such memoranda. I
18 think the appropriate thing to do would be to show
19 them to you to refresh your recollection.

20 THE WITNESS: We always sent a memo in to
21 the governor to be saying you are going to be
22 meeting -- he knew ahead of time because his

14

1 scheduling person alerted him to that. I know he had
2 a memo from me or Carol Rasco at the time of this
3 upcoming meeting saying this is the issue and on and
4 on, but I haven't seen any of that.

5 BY MR. GICALE:

6 Q I understand. I will be showing you some
7 memos but I would also like to test your independent
8 recollection of the events before we get to the
9 memos.

10 A Okay.

11 Q Do you know who it was that alerted you to
12 the fact that McDougal had problems with the health
13 department?

14 A No. I don't remember who alerted me to
15 that. He may have alerted me to that. I may have
16 had a call from him. I just don't remember that.

17 Q Did you know McDougal prior to this
18 incident?

19 A Only superficially, just because he was a
20 supporter of the governor's and he had the Maple
21 Creek Farms place and his wife was on television a
22 lot talking about it. So, his name was in the paper

1 or mentioned on television from time to time. But
2 no, I didn't know him personally. I had very little
3 to do with him.

4 Q Until this incident?

5 A Yes, until this incident.

6 Q Now, Mr. Cole indicated to you that we
7 would be showing you some documents here today. You
8 also indicated you did not have any documents.

9 Did you search for any documents at the
10 health department in preparation for your deposition
11 today?

12 A No. They wouldn't have been in the health
13 department anyway. They would have been in a box in
14 the bowels of the state capitol.

15 MR. COLE: You are referring to records
16 from the governor's office?

17 THE WITNESS: Right. The health department
18 has records also.

19 BY MR. GICALE:

20 Q Along those lines, did you speak to anyone
21 about your testimony here today prior to coming?

22 A I talked with Tom Butler. I can't remember

16

1 what day it was. I had a trauma in my life last week
2 and it was a terribly disruptive week. I don't
3 remember what day I talked to him.

4 Q But it was last week?

5 A Yes.

6 Q And --

7 A He called to alert me that the press might
8 call me. He said the press may call you and grill
9 you about something. I said fine. I said are you
10 going to Washington. He said he was going to be in
11 Washington on Wednesday. I knew Tom doesn't fly. He
12 was going to take a week off. We did not discuss
13 this. He didn't ask me any questions and I didn't
14 ask him any questions, and I haven't seen the
15 documents that the health department has.

16 Q The extent of your conversation with
17 Mr. Butler was that you might be getting a call from
18 the press?

19 A That I might be getting a call from the
20 press. He already had gotten wind that some of us
21 might have to go up to Washington. I was alerted by
22 my director that I might be called to go up to

1 Washington.

2 MR. COLE: In light of that, Ms. Choate
3 would be giving her best recollection of events about
4 10 years ago without seeing any documents.

5 THE WITNESS: Right.

6 BY MR. GICALE:

7 Q Did you talk to anyone else about your
8 testimony?

9 A Just my husband.

10 Q Anyone else?

11 A Yes, some people in the office.

12 Q Did you talk to them about what you would
13 be testifying to?

14 A No. I said it has to do with McDougal and
15 Maple Creek Farms. This was sort of a superficial
16 kind of comment.

17 Q You don't know who first alerted you to the
18 problem, but it could have been McDougal?

19 A He could have called me personally. If you
20 call the governor's office and you can't talk
21 directly to him about an issue that is pressing and
22 has to do with health and human services, you got

18

1 me. I may well have talked to him, but I just don't
2 recall that.

3 Q Do you remember, whether it was McDougal or
4 someone else, what the nature of his complaint was?

5 A Well, if I talked with McDougal, then I
6 would have known the nature of his complaint at that
7 point. If it wasn't McDougal, then somebody else was
8 telling me the nature of his complaint. It might
9 have been Betsy Wright or Carol Rasco. I don't
10 recall.

11 Q Do you recall what the nature of his
12 complaint was?

13 A He felt like he was not being given a fair
14 shake by the sanitarians who had come out to look at
15 his Maple Creek Farm acreage. It had something to do
16 with soil percolation and he wanted a meeting with
17 the governor.

18 MR. COLE: Are you able to distinguish,
19 Ms. Choate, to date between what you learned during
20 the course of the meeting and perhaps thereafter and
21 what you knew initially, which I believe was the
22 focus of Mr. Gicale's question, that is, the initial

1 question from Mr. McDougal or perhaps his
2 representatives?

3 THE WITNESS: Wait a minute. What?

4 MR. COLE: It is important to try as best
5 you can -- and I realize this is difficult -- when
6 Mr. Gicale asked you what you recall about the
7 initial contact on this matter to distinguish what
8 you learned at that time and what you learned
9 subsequently --

10 THE WITNESS: What I learned in the
11 meeting?

12 MR. COLE: Right. I'm cautioning you that
13 you are doing this from memory. Listen to his
14 questions and respond.

15 THE WITNESS: I learned more, obviously,
16 when I got into the governor's office, because
17 Mr. McDougal had a lot to say that day. He was
18 upset, aggravated.

19 BY MR. GICALE:

20 Q Do you recall what you did in preparation
21 for that meeting or who you talked to?

22 A Yes. I am sure the procedure, again, was

20

1 to call over and I probably talked with either -- I'm
2 sure I talked with Tom Butler and then probably the
3 head sanitarian, and I can't remember if it was Bill
4 Teer at the time or not. Bill is head of the
5 sanitarians now. Bill may have been in the meeting
6 that day. I know that Tom Butler was, and I think
7 Dr. Saltzman was in that meeting as well. He was the
8 director of the health department at the time.

9 Q What about an individual by the name of
10 Hill?

11 A Jerry Hill may have been there, yes, he may
12 have.

13 Q Do you recall whether you talked to him
14 before the meeting?

15 A I may have. I honestly don't remember.
16 I'm sure I probably talked to Tom Butler. Whether I
17 talked to Jerry and/or Bill Teer I just don't
18 recall.

19 Q Do you recall what he told you about the
20 complaints of McDougal?

21 A No. I really don't know any specific
22 things, just that we were going to -- he had been

1 summoned to come to the governor's office to talk
2 about this Maple Creek Farm situation.

3 Q Who had been summoned to come to the
4 governor's office?

5 A Tom Butler and some of the other people at
6 the health department had been summoned to come.

7 Q Would you have arranged for these people to
8 come to this meeting or would someone else have done
9 that?

10 A I might have done it and/or somebody else
11 could have done it. I often did arrange meetings. I
12 often would call people and tell them the governor is
13 expecting to see you on this certain day at this
14 certain time about this certain situation.

15 Q You would have to discuss it with the
16 governor's office?

17 A Yes. Oftentimes Betsy Wright was involved
18 with that since she was his chief of staff. Whether
19 she was involved in this, I don't recall. She had
20 her hand on the pulse of everything that was going on
21 in that office.

22 Q If you had a complaint that you thought

1 merited some attention --

2 A I probably would talk to Carol Rasco
3 first.

4 Q What was her position?

5 A When I became the liaison, she had to do
6 with governmental affairs. I can't remember her
7 exact title. She really sort of was over me and some
8 other people who were liaisons at that point. We did
9 report to her. Oftentimes we would go with Carol to
10 meet with Betsy. It depended on how much of a red
11 flag it was.

12 Q You initially would discuss it with Rasco?

13 A Yes.

14 Q And/or Betsy Wright?

15 A Right.

16 Q And then determine whether or not the
17 governor should meet with these people?

18 A Right.

19 Q Would you talk to the governor yourself
20 about whether you should meet with these people?

21 A Sometimes. Sometimes I would say it was a
22 good idea and sometimes it wasn't. He would want my

1 opinion and their opinion about these issues.

2 Q Do you recall in this instance whether or
3 not you met with Rasco and Wright about having a
4 meeting with McDougal?

5 A I probably did meet with Carol Rasco. I
6 don't know about Betsy Wright. I don't think I
7 talked with the governor ahead of time at all. I'm
8 sure Carol or Betsy did. Carol may have done the
9 memo in to the governor. I may not have done the
10 memo in to the governor.

11 Q Do you recall whether or not Carol Rasco or
12 Betsy Wright indicated they had talked to the
13 governor about setting up this meeting?

14 A Yes. Somebody said we are going to have a
15 meeting. I don't remember if it was Carol or Betsy,
16 but they said we are having a meeting on this.

17 Q To prepare for the meeting? They told you
18 to prepare for it?

19 A I evidently at that point probably called
20 Tom Butler and said what's going on, give me some
21 background and told them what time we were supposed
22 to meet and I may have asked for some information to

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1 be sent ahead of time. We oftentimes did that.
2 Sometimes we just said bring your documents and
3 whatever you need with you, make sure we have -- be
4 prepared to give us copies. It has been so long
5 ago. I met on so many issues it is hard to know
6 exactly who and what.

7 Q You believe you did meet with Butler?

8 A I'm sure I talked with him on the phone.
9 He was at the meeting, Tom Butler was at the meeting
10 with the governor.

11 Q At some point in time you remember
12 attending this meeting?

13 A Yes. McDougal was there.

14 Q Who else do you recall being there?

15 A I think Dr. Saltzman was there. Jerry Hill
16 may have been there. I don't remember. Or Bill Teer
17 may have been there. I don't remember.

18 Q Was Butler there?

19 A Yes, Tom Butler was there.

20 Q Was anyone else there?

21 A The governor, me. I don't remember anyone
22 else on the staff besides us.

1 Q What about Betsy Wright or Carol Rasco?

2 A I don't believe either one of them were
3 there.

4 MR. COLE: Did anyone come with
5 Mr. McDougal or was he there alone?

6 THE WITNESS: I think he was there by
7 himself, as best I remember.

8 BY MR. GICALE:

9 Q What do you recall being said by
10 Mr. McDougal?

11 A He was hacked off by some sort of
12 treatment. He alleged there was some sort of bad
13 treatment to him about his Maple Creek Farms acreage
14 and it had to do with these sanitarians, and he got
15 really aggravated and made some accusations. I don't
16 remember what they were. But he was agitated, like I
17 said. The governor, as I recall, was embarrassed by
18 the way he talked -- and he talked sort of down to
19 me.

20 Q He, you are referring to McDougal?

21 A Yes, McDougal. He was agitated. So he was
22 sort of fired up. We all represented something to

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1 him, I guess, that was disconcerting, because I was
2 this liaison who was the go-between between the
3 governor. Some people are funny about how they don't
4 like to have to go through any kind of a go-between.
5 They want to go directly to the person in charge or
6 the king or whoever.

7 Q McDougal was like that?

8 A He was kind of like that, yes. He was kind
9 of a jerk. That's just my opinion.

10 Q He didn't like the idea of having to deal
11 with you or Butler or anyone else?

12 A We were just peons. That was his
13 attitude. The governor got very angry with him. He
14 was very embarrassed that he talked that way to us
15 that day in his office. I do remember that, because
16 when Bill Clinton gets angry, you remember it; it
17 doesn't happen very often.

18 Q What did he tell him?

19 A That he was out of line to talk that way,
20 that these people had probably given him the benefit
21 of the doubt and that I had probably been nothing but
22 courteous to him and he needed to do whatever we were

1 asking him to do. There were certain regulations and
 2 they were saying if he needed to abide by those, then
 3 he needed to abide by them. That was the gist of
 4 it. I'm just giving you my slant on it and my bias.

5 Q Did Mr. McDougal request that the
 6 sanitarian on the job site, Mr. Dobbins, be removed
 7 in the meeting?

8 A I don't remember. I just know he wasn't
 9 happy. I didn't know it was Dobbins. But yes, he
 10 was unhappy with the sanitarian. That's why we were
 11 there to begin with. He just didn't think he had
 12 done him right. I don't know. He was very strange
 13 acting about it all, like there was some plot against
 14 him, you know -- I think the bottom line was he
 15 didn't want to do all he needed to do to make sure
 16 everything met regulations. There was some problem
 17 with the soil out there, that I recall.

18 Q Do you recall the other people in the
 19 meeting, Butler and Saltzman and Hill, attempting to
 20 explain their position to McDougal and the governor?

21 A Yes. They laid it all out very clearly.
 22 I'm sure they had things with them they brought about

1 why you have to do certain things. Those issues are
 2 not ones that I got deeply involved in because you
 3 rely on the person who is the expert to give you
 4 information, and that's what they came to do.

5 Q Do you recall anything else that was said
 6 at the meeting?

7 A No. I just remember that McDougal acted
 8 like a horse's rear end and the governor was
 9 embarrassed and got angry and told him he had to do
 10 what he was supposed to do as far as that piece of
 11 land was concerned. He said the health department
 12 will work with you, and I think there was a follow-up
 13 at some point from Tom to me, whether written -- I'm
 14 sure it was written and verbal, that they were
 15 pursuing this issue, working on it and getting things
 16 resolved, because you tried always to have closure on
 17 any kind of a situation like this or meeting like
 18 this.

19 Q What was the conclusion of that meeting?

20 A As best I can recall, that McDougal needed
 21 to work with the sanitarians and comply to whatever
 22 they were asking him to comply to.

1 Q Was there any discussion about removing the
2 sanitarian that was on the job?

3 A I don't recall that. There may have been.
4 McDougal was aggravated and he said a lot of things,
5 and he was being kind of rash, as I recall, the best
6 of my ability.

7 Q Do you know whether anybody from the health
8 department, Butler or Saltzman or Hill, agreed that
9 the sanitarian would be removed --

10 A I don't remember that.

11 Q -- in the meeting?

12 A I don't remember that. They may have said
13 that. I didn't remember it was Dobbins.

14 Q Do you recall whether or not the governor
15 told McDougal that the sanitarian should be removed?

16 A I don't remember that, no.

17 Q I take it you don't remember whether or not
18 a decision was made with respect to the sanitarian at
19 that meeting?

20 A I really don't. I don't know if they
21 removed that particular sanitarian.

22 MR. COLE: To be clear, do you recall any

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1 discussion at the meeting one way or the other about
2 removal of the sanitarian?

3 THE WITNESS: I don't. I don't know
4 whether that was discussed or not. I really don't
5 remember.

6 BY MR. GICALE:

7 Q Did you eventually learn that the
8 sanitarian was removed from the project?

9 A I don't recall that he was, but he may have
10 been. I don't remember.

11 Q After your meeting, do you have any
12 recollection of any other contact you had with
13 McDougal and the project and these people?

14 A I never had any more contact with him. I
15 didn't personally have any more contact with him. I
16 remember there was a follow-up at some point by the
17 health department to let us know that they were
18 working on the problem and that it would get
19 resolved.

20 Q I'm going to show you what is marked for
21 identification as item DKRT 80062 OA. It is a
22 memorandum dated January 30, 1986 to the governor

1 from, I believe this is you.

2 A Yes, J. Choate. That's me. Yes, that's
3 me.

4 Q The subject is McDougal. Can you take a
5 moment to review that and see whether or not that is
6 a copy of your memorandum of that date and whether or
7 not it refreshes your recollection as to what you
8 knew.

9 A CR is Carol Rasco.

10 Q You can read it to yourself.

11 A Okay.

12 (Witness examined the document.)

13 That's from me to the governor.

14 Q Does this now refresh your recollection as
15 to what you knew about McDougal's complaints and
16 when?

17 A Well, yes. I am reading that he had lots
18 of complaints.

19 Q Did he ask you to look in the governor's
20 jacket pocket for a memo that he had given the
21 governor on his complaints?

22 A He evidently said I could find something in

1 the coat pocket of the jacket he had on when he saw
2 him.

3 Q At the end of the first paragraph, it says
4 that you attempted to call McDougal back on Tuesday
5 of this week; correct?

6 A Yes, spoke to his secretary, yes.

7 Q And said that -- the secretary said that
8 he, McDougal, had spoken to you and that -- the "he"
9 she is referring to is he, McDougal, had spoken to
10 the governor?

11 A That very day, yes.

12 Q And she felt like the issue was resolved?

13 A Yes, but it wasn't, evidently, because we
14 went on and had a meeting. Then I did speak to Jerry
15 Hill. See, I didn't remember that Jerry was the
16 person there. They had gotten a lot of letters from
17 him. That all makes sense. Then I'm asking what we
18 needed to do.

19 Q What changed after the 30th?

20 Off the record.

21 (Discussion off the record.)

22 BY MR. GICALE:

1 Q After you spoke with McDougal's secretary
2 on Tuesday that week and you thought the issue was
3 resolved, what changed or how was it brought to your
4 attention that the issue was not resolved, that you
5 recall?

6 A I don't remember. I don't remember.
7 Somebody got back in touch with me. It may have been
8 Carol Rasco, because we did set up a meeting.

9 Q I'm going to show you what is marked for
10 identification as an exhibit numbered DKRT 1600617

11 A. It is a memorandum to the governor dated 2/5 from
12 Rasco.

13 A Right.

14 Q If you could just take a moment to look at
15 that memorandum.

16 A All right.

17 (Witness examined the document.)

18 Okay. I'm ready.

19 Q Does this memorandum -- I know it is not
20 your own -- refresh your recollection as to whether
21 or not Tom Butler had delivered some McDougal
22 documents to the governor's office in early February?

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1 A I don't have any idea. No, I don't
2 remember.

3 Q I'm going to show you what is marked for
4 identification as DKSX 013416, a memorandum dated
5 2/25. It is from Rasco to Choate. Take a moment to
6 review this and see if that refreshes your
7 recollection.

8 A Like I said to you earlier, I remember that
9 Tom Butler, Saltzman and I thought maybe Bill Teer --
10 I didn't remember Jerry Hill -- were in the meeting.

11 Q What was the purpose of this memorandum?

12 A For the McDougal meeting. She was alerting
13 me these were the people who were definitely coming
14 over from the health department with Tom Butler for
15 the meeting with the governor.

16 Q Would it suggest to you that was Rasco who
17 set up the meeting since she was telling you who
18 would be at the meeting?

19 A This is my writing at the bottom.

20 Q Where it says "Bill Teer, Saltzman"?

21 A Yes. That's all my writing.

22 Q When you say "this is my writing," where it

1 says "for McDougal meeting"?

2 A That's Rasco's writing. The names and this
3 March 4, Tuesday, 2:00 p.m. with governor," that's my
4 writing. Maybe something was attached to this.

5 MR. COLE: I think, in fact, the documents
6 that have been provided to us, the next two documents
7 in sequential order -- the next one document, if you
8 want to show it.

9 BY MR. GICALE:

10 Q I'm going to.

11 A I probably wrote down these are the people
12 who are going to meet with the governor. That makes
13 sense to me anyway.

14 Q I'm going to show you what is marked for
15 identification as document DKRT 800619A. This is a
16 memorandum dated February 25 from you regarding Jim
17 McDougal, although I cannot read --

18 MR. COLE: Here is a copy from a different
19 source that is not stamped. Why don't we use this.

20 MR. GICALE: Let's try another copy.

21 MR. COLE: For the record, what I'm giving
22 you, Ms. Choate, is what appears to be a routing slip

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1 you were referring to with your handwriting and DKS
2 013416. The next document in the documents produced
3 to the committee, DKS 013417 is a February 25
4 memorandum that appears to be from you to Ms. Rasco
5 "subject: Health department and Jim McDougal." At
6 least from the ordering of the documents in the
7 production to the committee, it appears those may
8 have come together.

9 A Right.

10 (Witness examined the document.)

11 Okay.

12 Q After reviewing this memorandum, does this
13 refresh your recollection as to what you told
14 Ms. Rasco on February 25th?

15 A Well, it helps me to remember that these
16 kinds of things were brought up. I had forgotten
17 about Dobbins.

18 MR. GICALE: Off the record.

19 (Pause.)

20 BY MR. GICALE:

21 Q You have had a few moments to review the
22 memo of February 25th. Does this refresh your

1 recollection as to what you knew about the McDougal
2 complaints in early February prior to the meeting
3 with the governor?

4 A Yes. I mean, it does just by reading it,
5 yes.

6 Q You knew then that Butler was trying to get
7 a handle on the McDougal -- it says "the McDougal
8 memo dated January." Do you see that?

9 A Right.

10 Q It is in the first paragraph.

11 A Right. I see that.

12 MR. GICALE: Off the record for a second.
13 (Discussion off the record.)

14 BY MR. GICALE:

15 Q I'm going to show you what is marked for
16 identification as DKSJ 013414, a memorandum dated
17 January 17, 1986 from Jim McDougal.

18 Is this the memorandum you were referring
19 to in your memorandum of February 25th?

20 MR. COLE: I would note for the record, as
21 I read her memorandum, it is not clear to me that she
22 ever saw that memorandum.

1 THE WITNESS: I don't know. I don't
2 remember ever seeing it, but I may have.

3 MR. COLE: In particular, the memorandum
4 that Ms. Choate reviewed earlier, the January 30,
5 1986 memorandum regarding a memo in the coat pocket,
6 it was clear at least at the time she wrote that
7 memorandum based on the content that Ms. Choate had
8 not seen the McDougal memorandum.

9 THE WITNESS: I hadn't seen it. If this is
10 what he gave the governor, I hadn't seen it.

11 MR. COLE: I have no reason to believe it
12 is not.

13 (Witness examined the document.)

14 BY MR. GICALE:

15 Q You don't recall whether or not you saw a
16 memo that McDougal had given to the governor?

17 A No. I think I was being sarcastic about
18 getting it out of his coat pocket. I just don't
19 remember.

20 Q At one point in time in your memo, the last
21 paragraph of this February 25th memo, you said you
22 planned to meet with Jerry Hill and others and "put

1 their feet to the fire and insist they level with
2 you" --

3 A "With me."

4 Q Were you concerned at all that Hill --

5 MR. COLE: This is a memorandum to
6 Ms. Rasco, for the record.

7 THE WITNESS: Carol Rasco, correct. We
8 wanted to cover all our bases and make sure they had
9 done what they were supposed to do and weren't
10 jerking anybody around. They were nice people to
11 work with. The health department people were very
12 nice people to work with. I just had problems with
13 McDougal.

14 BY MR. GICALE:

15 Q Did you deal with -- it refers to a retired
16 Army colonel who bought some land at Maple Creek.
17 Did you deal with this Army colonel?

18 A I may have. I just don't remember. I may
19 have. "Has been upset." I don't know if I am just
20 relating that. That could have been related to me by
21 the health department, or maybe I spoke with the
22 gentleman. I don't know. "This stems from the

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1 problems outlined in the memo sent over by the health
2 department."

3 Q I'm now going to show you a memorandum
4 identified as DKSJ 013421 dated March 4, 1986. It is
5 to the governor from yourself regarding "subject:
6 Jim McDougal, health department."

7 A This is March?

8 Q March 4, 1986. You earlier testified that
9 the meeting was set, I believe, for March 4th. That
10 was on your note which is on document DKSJ 013416?

11 A That's what I have written down.

12 Q I'm going to show you a memorandum that you
13 wrote that has your name on it dated March 4, 1986.
14 Please take a moment to review that.

15 (Witness examined the document.)

16 A Okay.

17 Q Do you know, after looking at this
18 memorandum dated March 4, '86, whether this memo was
19 prepared before or after the meeting you had with
20 McDougal and the governor?

21 A I don't have any idea whether it was before
22 or after. Probably after, but I don't know. I just

1 don't remember.

2 Q Do you recall --

3 A It makes me recall a lot of stuff about
4 McDougal that I didn't like. You forget a lot of
5 things in 10 years, but he was a difficult person to
6 deal with.

7 Q Do you recall McDougal referring to Teer,
8 Brumlow and Kirsch as incompetent bureaucrats, SOBs?

9 A Yes. That's why I don't recall caring for
10 him.

11 Q Do you recall him saying a memorandum he
12 had signed with the department was worthless?

13 A I don't remember exactly what he said.

14 MR. COLE: I don't believe this memorandum
15 indicates Ms. Choate ever heard Mr. McDougal say
16 that. This is what was reported by others. I am
17 happy to have her testify what she heard from
18 others.

19 BY MR. GICALE:

20 Q This is what they told you?

21 A He may have said a lot of things to me
22 too. Again, I don't remember. I don't remember.

1 Q Did he say these kinds of things to you as
2 well?

3 A He said some things to me that I found
4 distasteful. It may have been those things and it
5 may have been other kinds of things. He was very
6 adamant that they weren't working very well with him,
7 as I recall.

8 MR. COLE: How many discussions did you
9 have with him, if you recall?

10 THE WITNESS: Oh, not too many. He was one
11 of those people who, like I said, he wasn't going to
12 have much of a conversation with an aide. When he
13 was forced the talk to somebody like me, he did, but
14 he was really very condescending.

15 BY MR. GICALE:

16 Q Other than the meeting you attended with
17 the governor where Mr. McDougal was present, were
18 your other contacts with McDougal over the phone or
19 were they in person?

20 A On the phone, over the phone.

21 Q I'm going to show you what -- let's mark
22 this for identification.

1 (Choate Exhibit 1 identified.)

2 BY MR. GICALE:

3 Q I'm going to show you what is marked for
4 identification as Exhibit Choate 1. It is a printout
5 of a schedule.

6 A Okay.

7 Q That is represented to be the governor's
8 schedule.

9 A Right.

10 Q In the upper left-hand corner there is a
11 date, 04/86. The month does not appear to be
12 present. In the middle of that schedule it says
13 "2:00 p.m. appointment with McDougal, Butler, J.C."
14 Do you know whether or not this is the schedule for
15 the governor on March 4, 1986 for the meeting you
16 attended?

17 A It is the kind of thing we got. That's the
18 kind of thing that was produced all the time. If
19 that's when the meeting was scheduled, and I'm J.C.,
20 that is accurate.

21 Q So if a meeting was scheduled, you would
22 get a copy of this total schedule for the day with

1 your particular meeting on it?

2 A I think I probably did get a copy of the
3 whole day, yes. I probably did.

4 Q I'm going to show you another memorandum
5 marked for identification as DKSX 013404 and 405.

6 A Okay.

7 Q This is a memorandum dated March 5, 1986,
8 and it is to the governor from yourself, "subject:
9 McDougal-health department meeting with you."

10 Take a moment to review that memorandum.
11 (Witness examined the document.)

12 A See, the dates --

13 Q Does that memorandum refresh your
14 recollection?

15 A Wait a minute. Let me ask you something.
16 Can I ask you a question? I'm not getting these in
17 any kind of sequence of dates. You are just
18 confusing me more. What do you want? What do you
19 want from me? I wrote the memo, yes. I wrote the
20 memo. I have told you --

21 Q I am trying to give you these in
22 chronological order.

1 A I don't think you have.

2 MR. COLE: Mr. Gicale, for one thing, I
3 think we have some notes of the meeting itself. I
4 don't know whether they are Ms. Choate's notes or
5 not, although I believe they may be her notes. I
6 think in terms of refreshing her recollection of the
7 events that she is testifying to, it would be helpful
8 to show her all the documents we have in sequence, if
9 we can do that.

10 MR. GICALE: Some of those notes, in
11 fairness, are not dated. I do intend to do this, but
12 I have -- so the record is accurate --

13 MR. COLE: If they are notes of the
14 meeting, we know the date of the meetings.

15 MR. GICALE: I understand that. The
16 documents I have given her are in sequence. The last
17 document I referenced was the calendar for 3/4/86.
18 This is for 3/5.

19 MR. COLE: We have notes of the meeting on
20 3/4, which may be helpful. It is your examination.
21 You may proceed just as long as you are not confusing
22 the witness.

1 THE WITNESS: I don't deny that I wrote
2 this memo. I don't have a recollection of some of
3 this stuff that is in the memo. But I wrote the
4 memo, and I was there.

5 BY MR. GICALE:

6 Q This memo and the other memos that I have
7 shown you with your name on them that are from you,
8 do those accurately reflect what you had conveyed?
9 Are those copies of memos that you had sent to the
10 governor or Rasco on those dates?

11 A Yes, I'm sure they are. I have no doubt
12 they are.

13 Q Getting back to this 3/5/86 memo, in the
14 first paragraph it states you have talked to Butler
15 and he tells you that the three men McDougal
16 referenced in the meeting have been removed from
17 those jobs.

18 A Yes, I see that, but I didn't remember
19 that. I didn't remember that anybody was removed
20 from any job.

21 Q Did Mr. Butler tell you why they were
22 removed from their jobs?

1 A I don't remember. I didn't remember that
2 they had been removed from their jobs, so how would
3 I -- the question seems strange to me.

4 Q Once again, did anybody instruct Mr. Butler
5 to remove these men from their jobs?

6 A As far as I know, I don't recall that. I
7 don't remember that anybody told Tom Butler he had to
8 remove anybody from a job. I don't remember that at
9 all. It could have happened, but I don't recall
10 that.

11 Q Do you recall whether in that meeting or
12 prior to the meeting whether the governor told the
13 people there that Jim was his friend of 20 years who
14 had never asked for a favor, plus the fact that --

15 A I remember somebody referencing that. I
16 don't remember if he said that in the meeting or not,
17 but I remember somebody referencing the fact that
18 they had been friends for 20 years and as a courtesy
19 to a friend and a supporter he would be happy to
20 follow-up and have a meeting with this guy and the
21 health department and try to sort out the problem,
22 the disagreement, whatever.

1 Q Do you recall Tom telling you that the
2 sanitarians who Tom talked to wanted to know whether
3 or not the governor was in agreement with McDougal's
4 assessment?

5 A I don't remember that. I don't remember.

6 Q Do you recall Tom Butler telling you that
7 he defended the governor by saying that --

8 A Yes, I'm sure he did.

9 Q By saying that the governor was there to
10 listen as a courtesy to his friend and not really
11 pass judgment?

12 A I don't remember that, but it sounds like
13 something Tom Butler would say.

14 Q I'm going to show you what is marked for
15 identification as document DKS N 013412. It is a
16 document dated 3/21/86.

17 A Yes.

18 Q Before we get to that document, let me also
19 show you document DKS N 013281 through 282. I did
20 take this out of sequence, and I apologize. This
21 document is dated March 11, 1986. If you could look
22 at the second document first, the March 11th

1 document.

2 (Witness examined the document.)

3 A Okay.

4 Q Now, that document, 13281 through 282, is a
5 memorandum to Butler from Shelby through Bill Teer
6 notifying Butler of the transfer of the following
7 individuals, Lex Dobbins, Lane Townsend and Tom
8 Jenkins, to separate projects.

9 Do you recall whether or not you received a
10 copy of that memorandum when that was sent to
11 Mr. Butler?

12 A I don't recall. I may well have, but I
13 don't recall.

14 Q Going back to the other document, DKS
15 013412, dated 3/21/86, have you had a chance to
16 review that? Please take a moment to do that.

17 (Witness examined the document.)

18 A Yes. I wrote it.

19 Q Is this document a copy of a document you
20 wrote?

21 A Yes. I wrote it, yes.

22 Q Just so it is clear, can you read this,

50

1 your notes to us.

2 A You want me to read the whole thing?

3 Q Well, start with the first line and
4 continue on.

5 A "Had a call from T.A. Reed, construction
6 person, mentioning Lex Dobbins as unfair."

7 Q Who is T.A. Reed?

8 A A construction person. I don't know. I
9 don't remember T.A. Reed. I didn't remember Lex
10 Dobbins even. "Mentioning Lex Dobbins as unfair.
11 T.B.," which is Tom Butler, "said he would have Neil
12 Glover get with him and work through any problem and
13 Reed seemed satisfied. Tom said Reed then said what
14 sounded like a verbatim comment Jim McDougal made
15 several days ago (I related that entire conversation
16 to you, 'don't want to get political, but if we had
17 another governor he would fire Lex Dobbins. This
18 kind of man can defeat Bill Clinton.'"

19 Remember, Jim said that Lex Dobbins -- Jim
20 McDougal said "Lex Dobbins wasn't going to defeat
21 Bill Clinton, he hasn't spent \$60,000 on him since he
22 was 18 to sit back and watch a crazy, psychotic

1 person like Lex Dobbins."

2 I forgot it was Lex Dobbins that McDougal
3 was so irate about. "Tom, of course, is doing a
4 check on this. Told Mr. Reed."

5 Q I believe the second page to this document,
6 document DKSX 013413.

7 A "Tom, of course, is doing a check on this,
8 told Mr. Reed he appreciated his concern." Okay.

9 Q Now, the quote starting with "don't want to
10 get political," these are quotes of McDougal's?

11 A Yes, McDougal, McDougal.

12 Q And this is McDougal's statement to you or
13 to Butler, if you recall?

14 A It says "I related that entire conversation
15 to you," Jim McDougal made several days ago a
16 comment. It sounds like something McDougal said to
17 me. He said a lot of stuff like that. Maybe I am
18 saying that that's exactly what he said to me. He
19 said a lot of stuff like that.

20 Q He said he hadn't spent \$60,000 on him,
21 referring to the governor?

22 A Yes, that he, McDougal, liked to brag about

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1 that, how he helped put him in the governor's
2 mansion. He was a supporter of Bill Clinton's. He
3 had been a supporter for a long time. He was just a
4 jerk.

5 Q Now, I'm going to show you a document that
6 Mr. Cole had referred to earlier. It is an undated
7 document. It is dated -- it is identified as DKSX
8 013419 and 13420. It is two pages of a document. I
9 would like you to take a moment --

10 MR. COLE: It does say "March 4" in the
11 first line.

12 THE WITNESS: It says "March 4" right
13 there. It is my handwriting. It says "March 4." My
14 writing is hard to read.

15 BY MR. GICALE:

16 Q That is not a great copy. Take a moment to
17 review that.

18 (Witness examined the document.)

19 A Yes, yes. I just didn't remember it was
20 Dobbins he was so hot about.

21 Q After reviewing this set of notes -- these
22 are your notes; correct?

1 A Right.

2 Q Does this refresh your recollection as to

3 what McDougal said during the meeting?

4 A Yes, it does.

5 Q These are your notes --

6 A Yes, they are.

7 Q -- of that meeting of March 4, '86?

8 A I guess they must be, must be. March 4th,

9 if that's the day we met with the governor. He got

10 really -- he just acted awful. He just acted awful.

11 Q Now, were these McDougal's words "you are

12 here to gang me" is that what he said?

13 A Where are you seeing that?

14 Q I'm referring to five lines down.

15 A "Gang up on me," something like that, "gang

16 up on me."

17 MR. COLE: Would that be a reference to the

18 health department officials whose names are written

19 in the margin, Saltzman, Butler and Mr. Hill?

20 THE WITNESS: Right, it would be.

21 BY MR. GICALE:

22 Q Did he say Dobbins made a concerted effort

1 of intimidation?

2 A Yes. It was Dobbins. He had really bad

3 feelings about Mr. Dobbins.

4 Q Now, later in the page it says something

5 about "things going swimmingly." What is that?

6 A I don't know.

7 Q Who said that or why did you write that?

8 A I'm not sure. I mean, maybe another -- I

9 don't have this in quotes. I'm talking about

10 McDougal there. But I don't understand. That seems

11 like a non sequitur. I don't know. I really don't.

12 I don't know what the context of it is. That seems

13 out of context.

14 Q Directing your attention to the bottom

15 three lines, can you read those last three lines.

16 A "Dobbins is crazy. If they would tell the

17 truth, they would fire Dobbins now, but they are

18 afraid he will go to The Democrat with stuff on them"

19 meaning the health department.

20 MR. COLE: For those who are not from

21 Arkansas, you might describe what The Democrat is.

22 THE WITNESS: The Arkansas Democrat was one

1 of two papers at the time. They had a lot of disdain
2 for Bill Clinton. So he is referring to the fact
3 that if you gave them some information, they would
4 jump on it and make a big deal out of it.

5 It is the only paper now.

6 BY MR. GICALE:

7 Q The next line down says what?

8 A "I would fire Dobbins today. He is not
9 sane, he is not qualified, not stable. He is
10 agitating other sanitarians." This is McDougal
11 saying all this stuff. "I have taken all" -- "we
12 have taken all we will take, he must go, I have been
13 stabbed in the back, I don't want to deal with any
14 more long-haired, bearded hippies, no fanatics."

15 Q Does this refresh your recollection that in
16 that meeting, McDougal indicated that he would fire
17 Dobbins that day?

18 A Yes. He was real upset and agitated.

19 Q And that he felt that Dobbins must go?

20 A I don't know. I just didn't remember that
21 he said that. I know he said a lot of things about
22 the sanitarian. I didn't remember that it was

1 Dobbins either. I remember the governor was
2 embarrassed by the way he acted.

3 Q When he said that Dobbins should be fired
4 that day and that he must go, do you recall what
5 Mr. Clinton's response was to those statements?

6 A After McDougal got through ranting and
7 raving, and that's really what it was, Bill Clinton
8 got up and said the way you are talking is
9 inexcusable, and blah, blah, blah, these people are
10 professional staff. He was very -- he defended us
11 and them. Like I said, he was embarrassed that
12 McDougal just went off on this tear like that. He
13 said we are not cutting you any slack -- those may
14 not be the exact words, but something to that
15 effect -- that these people are professional and they
16 will revisit this with you and get it straightened
17 out, do what you are supposed to do.

18 McDougal came thinking that the governor
19 was going to cut him some slack.

20 Like I said, I didn't remember that it was
21 Dobbins. I just remember he got really upset about
22 the sanitarians.

1 Q Shortly after the meeting, as you can see
2 from --
3 A Various notes and memos.
4 Q -- various notes and memos, Mr. Dobbins was
5 removed from this job.
6 A I see that, yes.
7 Q Do you know why he was removed?
8 A I think that was probably real prudent.
9 Q Do you know why he was removed?
10 A No. I certainly would have concurred with
11 it. If you asked me, I would have said get some
12 other sanitarian out there. McDougal had a thing
13 about Mr. Dobbins obviously. It seemed like the
14 right thing to do. I didn't know that happened; I
15 didn't recall it, anyway.
16 Q You don't recall whether or not you had a
17 conversation with Butler about the removal of the
18 sanitarians and whether or not you relayed that to
19 the governor?
20 A I don't remember that at all. I don't.
21 Q Do you recall any subsequent conversation
22 with the governor about McDougal and this problem?

1 A No. I think at one point I thanked him for
2 standing up for us and taking our side against
3 McDougal.
4 Q I'm going to show you what is marked for
5 identification as DKRT 800609 A, a memorandum dated
6 April 29, I believe it is '86, although there is a
7 confidential stamp on top.
8 A It is to me from Jerry Hill.
9 Q To Janice Choate from Jerry Hill. Take a
10 moment to look at that.
11 (Witness examined the document.)
12 A It is very hard to read.
13 MR. COLE: I believe I have a clearer copy
14 of that memorandum.
15 THE WITNESS: It is real hard to read.
16 MR. COLE: It is dated April 29, 1986?
17 MR. GICALE: Yes.
18 MR. COLE: Here is a clear copy. Let me
19 note for the record this is DKSN 013407 through 411.
20 THE WITNESS: Okay.
21 MR. COLE: It is a memorandum to you from
22 Jerry Hill on Arkansas Department of Health

1 stationery.

2 THE WITNESS: Thank you.

3 (Witness examined the document.)

4 Okay.

5 BY MR. GICALE:

6 Q Thank you for taking the time to review a
7 fairly long memo. After now having reviewed it, do
8 you recall having received this memo from Mr. Hill on
9 April 29, 1986?

10 A I don't know. I really don't have any
11 recollection of it. It doesn't even ring a bell to
12 me.

13 Q Does reading it refresh your recollection
14 with respect to that memo?

15 A No, it doesn't, it doesn't even ring a
16 bell.

17 Q Do you recall whether there were further
18 conversations about violations on Maple Creek Farms
19 and further discussions you may have had with the
20 sanitarian who succeeded Mr. Dobbins?

21 A That memo doesn't ring any bells. That one
22 doesn't ring any bells. It is pretty long and wordy,

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1 but it doesn't ring any bell.

2 Q I'm showing you another memorandum, marked
3 DKRT 80060. It is a memorandum dated June 26, 1986
4 to the governor from yourself, "subject: Maple Creek
5 Farms." If you could take a moment to review this.

6 A Okay.

7 (Witness examined the document.)

8 Okay.

9 Q Is this a copy of your memo to the governor
10 on June 26, 1986?

11 A Yes, this is from me.

12 Q Does this refresh your recollection as to
13 what you told the governor on that date --

14 A No.

15 Q -- or at least placed in this memo?

16 A I just don't remember this particular
17 memo.

18 Q This is --

19 A Let me tell you, I thought that after we
20 had the meeting with the governor -- and at some
21 point I thought I had just gotten a memo from Tom
22 saying that they were working with him and they were

1 trying to resolve all the problems. I just don't
2 remember that from Jerry. I don't really remember
3 this. It doesn't surprise me that there is some sort
4 of ongoing saga, but maybe I just had blocked it
5 out. I don't know. I just don't remember that memo
6 to me from Jerry Hill.

7 Q Do you recall --

8 A It is my memo.

9 Q This memo is several months after the
10 meeting in March. Do you recall being asked by the
11 governor or Ms. Wright or Ms. Rasco to continue to
12 follow up on this matter?

13 A Well, I am sure -- well, I mean, there is
14 follow-up. I'm sure it was requested.

15 Q Do you recall whether from time to time any
16 of those individuals, the governor, Ms. Rasco,
17 Ms. Wright or anybody from the governor's office
18 would call you to find out what the status of things
19 was with respect to the McDougal Maple Creek Farms
20 issue?

21 A Like I said, I just don't remember. I
22 don't remember this continuing on to whatever date

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1 that is, June, to June.

2 Q That is June 26, 1986.

3 A Yes. I just thought that -- like I said, I
4 just sort of thought stuff was taken care of. I
5 don't remember these follow-up things with Jerry.

6 Q Do you recall any other follow-up
7 conversations or discussions you had with anyone, the
8 governor or Ms. Rasco or Ms. Wright with respect to
9 this issue?

10 A No. But I think standard procedure would
11 be if Tom Butler called me about something that was a
12 saga, a meeting we had before and ongoing problems, I
13 would have alerted Carol, not Betsy necessarily, but
14 Carol I would have alerted. So I'm sure she was
15 aware of this.

16 Q Do you recall any other involvement you had
17 with respect to this issue?

18 A I really don't. I don't even remember that
19 I ever talked to McDougal again after that day in the
20 governor's office.

21 Q To go back again to the date of the
22 meeting, your notes reflect that McDougal stated that

1 Dobbins must go, and then within a short period
2 after, on March 11th, I have shown you a copy of a
3 memo that indicates Mr. Dobbins was reassigned.

4 A Wasn't working on that, yes.

5 Q And you do not recall -- your testimony is
6 you do not recall who directed or made the decision
7 to reassign Mr. Dobbins?

8 A I think the health department probably did,
9 but that is just speculation on my part. And I think
10 it is prudent that they did.

11 Q You have no recollection of who made the
12 decision?

13 A I don't think the governor told them they
14 had to change. The governor was so embarrassed by
15 the way McDougal acted that he just wanted McDougal
16 to comply and do what he was supposed to do and said
17 the health department is going to work with you.

18 Q Do you recall -- you just said that you
19 don't think that the governor did. Do you recall
20 whether or not there was some discussion in that
21 meeting or in any subsequent meeting with the
22 governor about whether or not Dobbins or whoever was

1 in charge of Maple Creek Farms from the health
2 department should be removed?

3 A No, I don't.

4 MR. COLE: By that, when you say no, you
5 mean you have no recollection of any such
6 discussions?

7 THE WITNESS: I have no recollection,
8 right. I just don't have any recollection.

9 BY MR. GICALE:

10 Q Did you know the governor prior to assuming
11 your duties in April of 1985?

12 A Yes, I knew him.

13 Q How did you know the governor?

14 A Well, I had been a supporter of his and had
15 been involved in his campaign. That's how I knew
16 him.

17 Q How did you come to take the position in
18 the governor's office in April of '85?

19 A Carol Rasco called me and I went to work
20 for her. She needed somebody to help her. It was
21 soon thereafter that I took over. She was the
22 liaison at that point, and I took over at that point,

1 after working there shortly, not too long after. I
2 can't remember when I took over as the aide.

3 But she and I had been friends a long time
4 and known each other through church. She just said,
5 hey, I need some help. I went over and she knew I
6 was real interested in the governor and what he was
7 about.

8 Then, when he wanted Carol to take this
9 other position, he asked me if I would be willing to
10 take over as the liaison for both those health and
11 human service agencies. And I said yes, I would.

12 Q Was it Carol that initially contacted you
13 about the position, or the governor?

14 A It was Carol who initially contacted me.
15 It was to work directly with her at that point. I
16 did for a while.

17 Q How long had you known her prior to April
18 of '85?

19 A For many years, 10, 12 years or more, and
20 known her well.

21 Q Was it through her that you became involved
22 with the governor's campaigns?

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1 A No, it wasn't.

2 MR. COLE: I think some reasonable inquiry
3 about background here is appropriate, but at some
4 point, your pushing beyond our resolution to explore
5 the political activities of Ms. Choate as far as
6 Arkansas politics are concerned is not within the
7 scope of our resolution.

8 THE WITNESS: I liked him or I wouldn't
9 have been working for him.

10 BY MR. GICALE:

11 Q Since this incident with Mr. McDougal and
12 Maple Creek Farms, since June of '86, which is the
13 date of the last memo I showed you, have you talked
14 to either the governor or Ms. Rasco?

15 A Not the governor. I have talked to Carol.

16 Q About this issue?

17 A I talked to her several months ago, yes,
18 because some lawyer called to talk to me about this
19 issue. And I'm sorry, I can't remember his name. It
20 has been several months ago. I don't know how many
21 months ago.

22 Q Called to talk to you about this issue, or

1 called to talk to her?

2 A No. He called and talked to me. Carol
3 called and said that I would be getting a call. It
4 was about this meeting that went on with McDougal,
5 and just to tell him whatever I remembered. I didn't
6 have any of this before me at that time, none of
7 this. Somebody had to ferret out the boxes and pull
8 these things out for you guys. I haven't seen any of
9 this since 1986.

10 Q Do you know if the attorney was from the
11 House?

12 A I'm sorry, I can't remember. I think it
13 was -- no, I don't think the person -- I don't think
14 the person was you-all's attorney. I think he was a
15 private attorney. I don't remember his name. I'm
16 sorry.

17 Q In any event, Ms. Rasco called you prior to
18 this attorney calling you?

19 A She did. She said so-and-so is going to
20 call you and talk to you about McDougal, and I said
21 what for. She said they want to know if you recall
22 the meeting and any of the things that went on

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1 related to Maple Creek Farms. I said okay, I will
2 talk to him, whatever.

3 He did call. I talked to him a couple of
4 times and recalled, as best I could, the meeting. It
5 is just kind of bizarre, at that point I remembered
6 as much as I did. Some of this has triggered some
7 memory, because I surely didn't remember Lex Dobbins
8 was the sanitarian.

9 Q Was the attorney's name Mr. Paladino?

10 A No, it wasn't Paladino.

11 Q Do you have a phone number or a name for
12 the attorney?

13 A At some point I did. He called me and I
14 returned the calls. The calls were at home. I was
15 not called at work. Just a minute. Let me think.

16 (Pause.)

17 Bill -- John -- Bill. I'm sorry. I can't
18 remember.

19 Q Did you meet with the attorney?

20 A No. Just talked with him on the phone,
21 like twice, I think.

22 Q In any event, you have his name and phone

1 number at home?

2 A No, I'm sure I don't. I probably had
3 written it down at some point to return his phone
4 call. I didn't keep it, because it didn't amount to
5 anything.

6 MR. COLE: Were there articles in the press
7 about this at that time? I believe -- in fact, I
8 have a couple articles here from one of the local
9 papers.

10 THE WITNESS: You mean when this lawyer
11 talked to me?

12 MR. COLE: Yes.

13 THE WITNESS: Maybe. I don't know.
14 Maybe.

15 MR. COLE: I think I left them in my
16 office. There was some reporting on this issue, and,
17 if I'm recalling correctly, from perhaps the Memphis
18 paper, about these sanitarians being reassigned.

19 THE WITNESS: I don't know. I don't take
20 that paper. Even if I took the Democrat and
21 something appeared in it, I wouldn't --

22 BY MR. GICALE:

1 Q Do you recall what month it was that this
2 attorney called you?

3 A It may have been earlier this year or last
4 year. It has been in the last year, though, because
5 Susie Whittaker called me to ask if I remembered
6 doing memos. I said yes, I'm sure I did memos before
7 and after the meeting.

8 Q Who is Susie Whittaker?

9 A She worked on the governor's staff with
10 Mike Galt. He was a press secretary. Now Susie
11 works in Arkansas on the Presidential -- on Bill
12 Clinton's -- it is a real small staff of people who
13 work. She is one of them. She works with that
14 office.

15 Q When Ms. Rasco called you about this, did
16 you talk to her about what you remembered about the
17 events?

18 A We didn't have much of a conversation at
19 all. She called and said Choate, I'm alerting you to
20 the fact that Bill, or whoever, is going to call you
21 and it is related to Maple Creek Farms, and the
22 meeting you had with the governor, and any problems

1 that arose with McDougal. I said okay, I will talk
2 to him and remember as best I can.

3 It wasn't Paladino.

4 Q How was Whitaker involved in this?

5 A She called me because she said did I
6 remember doing memos and how would they have been
7 classified. I said, well, under health department
8 and McDougal. Look under any of the health
9 department, because we boxed up stuff -- I may not
10 personally have boxed up things -- but things were
11 boxed up year after year after year, because you have
12 hundreds of memos and documents.

13 But you have to keep them in a box, and
14 they are stored somewhere, I think, in the bowels of
15 the state capitol. She was the one evidently they
16 asked to go over and ferret out the memos. But I
17 didn't see them. I have not seen these until today.

18 Q Whitaker was the one that they --

19 A They evidently called, somebody called
20 her. I don't know if it was the attorney or somebody
21 from Bill Clinton's office here. I have no idea.
22 She didn't say. She just asked me if I could

1 remember where they might be catalogued.

2 I even offered to help her find them. I
3 said I will come over Saturday and help you. Then I
4 didn't hear anything back from her. I didn't know if
5 she ever unearthed them or not.

6 Q She called you before or after Rasco called
7 you?

8 A After. I think it was after.

9 Q She talked to you after the attorney talked
10 20 you?

11 A Yes, I think so. I talked to him on a
12 couple different occasions, not for very long. He
13 didn't ask me a lot of questions. I'm sorry, I can't
14 remember his name. It hasn't been that many months
15 ago.

16 Q When Whitaker called you, where was she
17 working at the time?

18 A She is in the state of Arkansas, working
19 now on the President's staff. It is just a
20 Presidential office of about three or four people.
21 They are sort of a link to him and Arkansas folks.

22 Q So, she works for the President or she

1 works for the state?

2 A I don't think -- it is not state dollars.

3 I think people raise money --

4 MR. COLE: You meant physically,
5 geographically in the state of Arkansas?

6 THE WITNESS: It is in Little Rock.

7 BY MR. GICALE:

8 Q It is an office of the President in the
9 state of Arkansas?

10 A Yes. It is a small staff, maybe three or
11 four people.

12 Q The records you were talking about were
13 state records?

14 A Yes, they were state records.

15 Q Did you have conversations with anyone else
16 other than Ms. Whitaker and Ms. Rasco about this?

17 A I didn't really have a conversation with
18 Susie about it. I didn't have a conversation with
19 Carol about it. She was just alerting me I was going
20 to be asked some questions.

21 Q Did you talk to Betsy Wright about it?

22 A No. I haven't seen her but once or twice

1 since she has been out of the state of Arkansas.

2 Q You indicated you talked to Butler?

3 A Just recently. He called us to say Choate,
4 the press may call you because you are getting the
5 subpoena. I don't know how he found out the press
6 knew, the Arkansas press people knew, because I
7 hadn't said anything.

8 I wasn't excited about coming to Washington
9 over something I think is as inane as this. I hate
10 that my tax dollars paid for my ticket today, just
11 for the record.

12 Q Did you talk to anyone else from the White
13 House or any other representatives of the President's
14 staff or office --

15 A No, I did not.

16 Q -- about this incident since '86?

17 A No, I don't think so. I mean, why would
18 I?

19 Q Before coming here, did you tell Ms. Rasco
20 that you would be testifying?

21 A No. I didn't talk to Carol.

22 Q Do you continue to maintain contact with

1 her?

2 A Yes, she is a very good friend of mine. I
3 did not speak to her. She has no idea I'm here
4 today. Just people in my office. They have given me
5 a real hard time about it.

6 MR. COLE: Off the record.

7 (Discussion off the record.)

8 MR. GICALE: I have nothing further at this
9 point.

10 EXAMINATION

11 BY MR. COLE:

12 Q I just want to ask very few follow-up
13 questions, Ms. Choate, to try to clarify some of your
14 previous testimony here.

15 Going back to the first discussions that
16 you had with Governor Clinton about this
17 McDougal-Maple Creek matter, and I realize Mr. Gicale
18 showed you a number of memoranda, including one that
19 referenced a document in the governor's coat pocket,
20 to the extent any of that refreshed your
21 recollection, going back to the first meeting, did
22 Governor Clinton indicate to you that Mr. McDougal

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1 should be given any special treatment of any kind?

2 A No, no. I just knew he was a friend of
3 Bill Clinton's, that's all. He didn't, no.

4 Q Do you recall whether Governor Clinton
5 indicated any special concern when he heard there was
6 a problem involving Mr. McDougal?

7 A No. Just at that meeting that day when we
8 all got together.

9 Q Right now I'm focusing on your first
10 contacts, when the governor first learned from you
11 that there was a problem involving Mr. McDougal.

12 A He may not have learned it from me first.
13 I don't remember that. I don't remember whether I am
14 the one who got the call and informed the governor at
15 that time. I don't remember those things. I just
16 don't. But no.

17 Q To the best of your recollection, he never
18 indicated to you, or in your presence, that
19 Mr. McDougal should receive any special treatment or
20 any preferential treatment?

21 A Absolutely not. I think he was thoroughly
22 disgusted that day because of that meeting.

1 Q I'm not to the meeting, no.

2 A Prior to that, no. I never had a
3 conversation with Bill Clinton about Mr. McDougal.

4 Q In the meeting itself that I believe the
5 documents indicate took place on March 4th, is that
6 the kind of meeting that would ordinarily be provided
7 to a business person, a constituent in Arkansas who
8 had a problem with one of the state regulatory
9 agencies?

10 A Yes and no, yes and no. You would pick and
11 choose. Some were going to be more likely to happen
12 than others. Again, because McDougal was a long-time
13 political friend, as a courtesy and because of his
14 support, he was going to give him an audience. He
15 gave an audience to people who weren't supporters of
16 his.

17 Q That was my question, whether this was
18 unique, whether Mr. McDougal got something that no
19 one in the governor's administration had gotten?

20 A No.

21 Q Similar meetings had been set up on other
22 occasions?

1 A Yes, right.

2 Q You, I believe, testified that you don't
3 know who set up the meeting itself?

4 A I don't remember. I just don't remember.
5 I am thinking maybe Carol Rasco did, but that's just
6 because --

7 Q You don't know even whether Governor
8 Clinton directed that a meeting take place or whether
9 one of his staff decided to schedule the meeting?

10 A Right. I don't know. It could have been
11 either way.

12 Q That's fine. If you don't know, you don't
13 know.

14 At the meeting itself, after Mr. McDougal
15 made his statements concerning Mr. Dobbins and the
16 health department, was Governor Clinton supportive of
17 the staff?

18 A Yes, very. He was, he was very
19 supportive.

20 Q And you testified, I believe, that he
21 directed or indicated to Mr. McDougal that
22 Mr. McDougal would have to comply with the

1 regulations or the requirements that the health
2 department was enforcing. Is that your recollection
3 of what occurred?

4 A Yes, it is my recollection.

5 Q That's what he said at the meeting in
6 Mr. McDougal's presence?

7 A Yes.

8 Q And after the meeting, did Governor Clinton
9 direct any of the health department staff to take any
10 action that you recall?

11 A You know, I don't know. He may have said,
12 hey, you guys need to get together and work through
13 this, let's get it straightened out and move on down
14 the road. I don't know.

15 Q Not speculating about what might have
16 happened, in terms of your personal knowledge?

17 A In my recollection, I just don't remember.

18 Q Were you there for all of the meeting?

19 A Yes.

20 Q What happened when the meeting broke up?

21 A I went on back down to my office and did
22 other things. Sometimes people lingered and visited

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1 with him a little while.

2 Q In this particular instance, do you
3 remember whether the meeting continued after you
4 left?

5 A I don't think it did, but it may have. I
6 don't remember.

7 Q At any time, either at the meeting,
8 immediately after the meeting, or thereafter, were
9 you ever told by the governor to do anything about
10 this matter?

11 A No, never. I was not.

12 Q Do you have any knowledge that the governor
13 told anyone else to do anything?

14 A I have no knowledge of that.

15 Q So, really what you know is what you have
16 learned from looking at the documents today, and in
17 fact, you didn't even recall --

18 A I didn't recall some of it before.

19 Q -- that certain sanitarians had been
20 reassigned.

21 A That's correct.

22 Q I want to show you a document, DKS N 013404

1 through 405. It is a two-page memorandum to the
2 governor from you, Ms. Choate, dated March 5, 1986.

3 A The meeting was on the 4th?

4 Q Yes. I believe this would be after the
5 meeting. There is a sentence in this memorandum
6 that, I believe, could cause a reader some
7 confusion. I want to direct your attention to it.
8 It is the second sentence in the memorandum. The
9 first states "I have talked with Tom Butler this
10 a.m. " That would be you telling the governor you had
11 spoken with Tom Butler. The second sentence states
12 "he tells me that the three men Jim McDougal
13 referenced in yesterday's meeting have been removed
14 from those jobs."

15 Now, I want the frame this question
16 carefully, if I could. I think that a reader could
17 interpret that in at least two ways. One way might
18 be that the governor had directed you to have those
19 people removed, and that you are reporting back to
20 him that you have checked with Tom Butler and the
21 three men have been removed from the job. Is that
22 what this was meant to convey?

1 A No. The governor didn't have any kind of
2 dialogue like that with me. Tom probably called me
3 and is giving me this information. I didn't remember
4 that.

5 Q That would be the second interpretation
6 that a reader might make, that you had spoken with
7 Mr. Butler, that Mr. Butler had, at his own
8 initiative, informed you that the three men had been
9 removed from their jobs, and you are passing this
10 information on to the governor?

11 A Alerting him, yes.

12 Q Do you have any recollection as to which --

13 A I didn't remember that Tom had removed
14 people from the jobs. I didn't remember that.

15 Q To be clear, you have no recollection that
16 the governor directed you to have the men removed and
17 that you were reporting back in this memorandum?

18 A No, the governor didn't direct me to do
19 something like that.

20 Q If someone read the memorandum in that way,
21 your belief is that would not be the correct way to
22 read the memorandum?

1 A Right.

2 Q You are reporting to the governor of what
3 Tom Butler told you and nothing more than that?

4 A That's correct. This is just an aside, but
5 I'm surprised there isn't some sort of a memo from
6 Tom, maybe that the health department has. It seems
7 to me, usually after a phone conversation with
8 someone like a Tom Butler or head of any other
9 agency, I would get a follow-up memo of some kind.
10 Oftentimes there are follow-up memos saying we are
11 working on this issue, here is the status.

12 Q Do you know, from your experience as the
13 governor's liaison with the health department,
14 whether the health department had a policy that when
15 there was a dispute between inspectors or sanitarians
16 and a developer, in this case, that they would, as a
17 matter of course, reassign inspectors and put a new
18 inspector on the matter?

19 A I honestly don't know. I just think
20 because there was such a brouhaha about it, it seemed
21 like an untenable situation. Like I say, I think it
22 is prudent they put somebody else on. Obviously,

1 these people, to McDougal, who was very difficult to
2 work with, this Dobbins wasn't going to make any
3 headway with him.

4 Q In your dealings with Mr. McDougal, you
5 found him difficult to deal with?

6 A Very, very difficult; very arrogant and
7 very condescending.

8 Q Was Mr. McDougal prone to making statements
9 about his personal relationship with the governor and
10 his political influence?

11 A Yes, yes, yes. He loved to tell people how
12 much money he spent. He was real braggadocio.

13 Q In light of the statements that
14 Mr. McDougal would make, that you just testified to,
15 about his personal relationship with the governor and
16 his political influence, are you aware in this matter
17 whether the governor did anything to give
18 Mr. McDougal special treatment?

19 A No. No, I am not.

20 Q To the best of your knowledge, that didn't
21 happen here?

22 A No. To the best of my knowledge, it did

1 not happen.

2 MR. COLE: I don't have anything further.

3 EXAMINATION

4 BY MR. GICALE:

5 Q Where was Ms. Rasco working when she called
6 you?

7 A She was here in Washington. It has been in
8 the last year. She has been with Bill Clinton since
9 right after he took office.

10 Q She was working at the White House?

11 A Yes. I think she called me at night and
12 said hey, somebody is going to call you in the next
13 few days. She told me the person's name, but it
14 wasn't Paladino.

15 MR. GICALE: I have nothing further.

16 (Whereupon, at 2:22 p.m., the deposition
17 was concluded.)

18

19

20

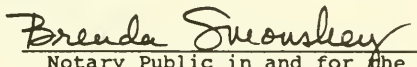
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22

JANICE D. CHOATE

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

DEPONENT

ERRATA

[illegible]

7/9/96
Janice Choate

TUESDAY

Accepted Requests

From 12:01 AM 3-04-86 To 11:59 PM 3-04-86

Printed on 3-03-86

Page 1

Date	Time	Contact Name	Phone
04-86	8:30 AM	Continental Breakfast at the Mansion with Leadership Pine Bluff board members/Cass.	
	9:30 AM	Trooper will take Gov. to Capitol.	
	9:45 AM	STAFF & PHONE TIME.	
	10:45 AM	Appt. with Judge Holt/MAG & SW.	
	11:40 AM	Trooper will take Gov. to the Law School at 400 West Markham	
	12:00 PM	Speak to Law Students/KR. Event Location - Law School Room 602	
	1:00 PM	Trooper will take Gov. to Capitol.	
	1:15 PM	STAFF & PHONE TIME.	
	2:00 PM	Appt. with Jim McDougal/Tom Butler/JC.	
	3:00 PM	PROC SESSION/CF.	
	4:00 PM	STAFF & PHONE TIME.	
	5:00 PM	Trooper will take Gov. to Mansion.	
	6:30 PM	Trooper will take Gov. to Excelsior.	
	7:00 PM	Arkansas Citizen of the Year Award Banquet. Event Location - Grand Ballroom The Excelsior Hotel	

BLACK TIE

Remarks - Gov. to present award.

Trooper will take Gov. to Mansion when finished.

DKSN013104

**DEPOSITION OF WILLIAM BURT BRADY
IN RE: S. RES. 120**

TUESDAY, DECEMBER 12, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM BURT BRADY, called for examination pursuant to notice of deposition, at 2:04 p.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
STEVEN H. FROMEWICK, Esq.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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PROCEEDINGS

Whereupon,

WILLIAM BURT BRADY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record?

A I'm William Burt Brady.

Q Your present business address?

A 714 South Main Street in Jonesboro, Arkansas; Northeast Arkansas Legal Services.

Q And what is your business phone number there?

A Excuse me. The business number is 972-9224. I'm speaking to you right now from 933-6602 in Jonesboro.

Q Now, how long have you been employed in that position -- well, what is your position at the

4

legal aid office?

A Attorney. And I've been employed from July of '91 here in Jonesboro and from February of '91 with the agency. Originally over in Newport, Arkansas.

Q And where did you work prior to February of '91?

A Well, it would really be a lot easier just to submit a resume for the record, but I was in limited general practice in Pine Bluff, Arkansas and also in Hot Springs and Little Rock from about 1984 -- '86 to 1990, and I was with the securities department between 1979 and 1986.

Q You were with securities from '79 to '86 and from '86 to '90, or is that '91, you were in general practice?

A Well, make it '91.

Q Well, I don't want to put words in your mouth.

A No, but I really wasn't doing anything. So it's between November and February of -- November of '90 and February of '91 I was just messing around in

1 Pine Bluff.

2 Q So you were in general practice of law
3 from '86 to '90?

4 A Yes.

5 Q To November of '90; correct? And prior to
6 going to the securities, working at the securities
7 department in Arkansas, where did you work?

8 A Primarily I was legal counsel for an
9 insurance company in Little Rock that's now sold to
10 an out-of-state company and no longer in business.

11 Q What was the name of that company?

12 A Pyramid Life Insurance Company of America,
13 and I was with them from '75 through '64 -- '64
14 through '75.

15 Q '64 through '75 you were with that company?

16 A Yes.

17 Q And what did you do between '75 and '79?

18 A Oh, general practice in Little Rock. I
19 really didn't do anything. I more or less retired.

20 Q You were retired when, during that time
21 period?

22 A From about '75 through '79.

1 Q So you didn't -- you had a general practice
2 but it was limited -- or you were, you were not
3 practicing during that time period?

4 A I'm sorry?

5 Q You were not practicing between '75 and
6 '79?

7 A Only in a limited way. I did some
8 practice, but not a lot.

9 Q Were you employed in any other capacity
10 during that time period between '75 and '79?

11 A Not to any degree, no.

12 Q Prior to '64, what did you do then?

13 A Just a second. I'm having to look at my
14 resume to see. Prior to '64 I was with Georgia
15 Pacific Corporation in its classic division for about
16 six months, and before that, from '61 through '63, I
17 was an associate of Rose, Meek, House, Barron, Nash &
18 Williamson in Little Rock.

19 Q That was the predecessor of the Rose Law
20 Firm?

21 A So I understand.

22 Q And did you go there -- when did you

1 graduate from law school?

2 A In 1954 I graduated from law school, and I
3 was in the service between '54 and '56. Then I was a
4 law clerk for a judge on the Arkansas Supreme Court
5 between '56 and '57. I returned to Fayetteville to
6 study accounting, and in '58 I was trial attorney for
7 the highway department, and then in '59 and '61 I was
8 a law clerk for a federal judge here in Little Rock,
9 and then I went to the Rose Law Firm from federal
10 judge clerkship.

11 Q It would be a help to us if you would send
12 us a copy of your resume --

13 A I'd be happy to.

14 Q -- after we complete this. Now, when you
15 were at the Securities Commission, what was your
16 title there?

17 A Primarily I was an attorney in the
18 broker/dealer division.

19 Q Now, Mr. Brady, this deposition is being
20 conducted pursuant to Senate Resolution 120. The
21 resolution establishes a special committee
22 administered by the Banking Committee to conduct an

1 investigation involving Whitewater Development
2 Corporation, Madison Guaranty Savings & Loan
3 Association, Capital Management Services,
4 Incorporated, the Arkansas Development and Finance
5 Authority, and other related matters.

6 Section 1(b)(3)(A) and (B) of Senate
7 Resolution 120 authorizes an investigation and public
8 hearings into A, the operation, solvency and
9 regulation of Madison Guaranty Savings & Loan
10 Association and any subsidiary, affiliate or other
11 entity owned or controlled by Madison Guaranty
12 Savings & Loan Association. B, the activities,
13 investments and tax liability of Whitewater
14 Development Corporation as related to Whitewater
15 Development Corporation or its officers, directors
16 and shareholders.

17 You are requested to testify in a
18 December -- within the last week. This deposition is
19 being taken in advance of public hearings which may
20 occur in early 1996. It's possible that you could
21 testify at those hearings.

22 We will be asking you a series of

1 questions. You, of course, are testifying under
2 oath. If you don't understand a question, let us
3 know and we will rephrase the question.

4 The stenographer is preparing a record of
5 questions and answers. The deposition will be
6 treated as Committee confidential until the
7 commencement of the hearings. Prior to the hearings,
8 you will receive a letter from the Committee telling
9 you that you may come to the Senate to review a copy
10 of your deposition and make note of any corrections
11 for transcription on an errata sheet.

12 Since you are out of town, we can make
13 arrangements to have that, the transcript, made
14 available to you for your corrections if that is your
15 choice.

16 If you are called to testify at a public
17 hearing, you will be permitted to have a copy of your
18 deposition four days prior to your testimony. You
19 may be represented by counsel, and I note that you
20 are appearing without counsel today.

21 Objections to the form of questions will be
22 noted for the record and counsel may object on the

10

1 grounds of privilege or relevance. The Committee
2 Chairman may rule on objections where the witness
3 refuses to answer a question.

4 Now, Mr. Brady, did you search to make a
5 determination as to whether or not there were any
6 records or did you review any records prior to
7 testifying today?

8 A I looked in my own files to see if I had a
9 copy of the statement I gave the Resolution Trust
10 attorneys. I haven't found it. I think I've put it
11 in a box that's in the attic, but anyway, that's the
12 only searching I did.

13 Q Now, when you say your own files, do you
14 have a file on this issue, or just --

15 A No, I've just kept a copy of my statement
16 to them that they gave me.

17 Q Would that be the only record that you have
18 with respect to this issue?

19 A Yes.

20 Q And did you review records from any other
21 source prior to testifying today?

22 A Well, as we mentioned earlier, they may

1 have shown me something out of their file.

2 Apparently they did.

3 Q When you say "they," you are referring to
4 the RTC?

5 A From Kansas City, from the Resolution
6 Trust.

7 Q Resolution Trust Inspector General;
8 correct?

9 A Yes. They apparently showed me a letter
10 from Beverly Bassett to Hillary Rodham Clinton, but I
11 don't -- I didn't know anything about that letter
12 before they showed it to me, and I don't recall what
13 it said now except that it just existed.

14 Q Have you talked to -- so other than that,
15 the document you were shown by the RTC, have you
16 reviewed any other record in preparation for today's
17 deposition?

18 A No.

19 Q Have you talked to anyone with respect to
20 the substance of your testimony today?

21 A Other than talking with the attorneys from
22 the RTC, no. In fact I don't remember exactly when

1 it was, but it was about six months ago I'd say.

2 Q Was it six months ago, or was it May of
3 1994?

4 A May of '94? I don't think it was that long
5 ago, but May of '95 might be more like it.

6 MR. COLE: Mr. Brady, this is Mr. Cole. Do
7 you recall -- we have a copy of the affidavit that
8 you gave to the Resolution Trust Corporation Office
9 of Inspector General in May -- that's dated May 18th,
10 1994. Do you recall whether you had contact with
11 other attorneys representing the RTC subsequent to
12 May of 1994 when you gave this affidavit?

13 THE WITNESS: No. The last I saw of them,
14 they were in the library at the office, and I signed
15 a copy of the statement that they had produced on
16 their portable computer and that was the last of it.

17 MR. COLE: Thank you.

18 BY MR. GICALE:

19 Q Okay. Other than those RTC officials, you
20 have not talked to anyone else about the substance of
21 your testimony today?

22 A No, that's correct.

1 Q Now, Mr. Brady, when did you or how did you
2 first hear of a Madison Guaranty preferred stock
3 request in -- now this is going back to 1985.

4 A Ms. Bassett handed me a copy of a request
5 that she had received from the Rose Law Firm, signed
6 by two attorneys there that I did not recognize. I
7 did not know their names. I don't remember it to
8 this day who they were. They were people -- the firm
9 had gotten much larger than when I had been with it
10 some years before, and I didn't know these people.

11 But she said at that time that she had seen
12 Hillary at a party. Hillary had told her she was
13 sending a request over for a clearance of this
14 transaction by which Madison would issue some
15 preferred stock.

16 Q When you said "she said she saw Hillary at
17 a party," who are you referring to?

18 A Ms. Bassett.

19 Q Beverly Bassett --

20 A Yes.

21 Q -- said that she had seen Hillary who, at a
22 party?

1 A Hillary Rodham.

2 Q At a party. And what did she say?

3 A That she was sending this request over for
4 approval of the issuance of preferred stock by this
5 savings and loan association, which was -- I recall
6 it was the state savings and loan, and therefore
7 under the jurisdiction of the securities commissioner
8 who wore several hats, and one of them had to do with
9 domestic savings and loan companies.

10 Q And did she tell you about the conversation
11 that she had with Hillary Rodham -- and you are
12 referring to Hillary Rodham Clinton; correct?

13 A Yes. Other than to say that Hillary had
14 indicated she was sending this request for approval
15 over to the department, she didn't say anything more
16 about it.

17 Q Did she tell you about this conversation
18 before she handed you a copy of the letter, or was
19 it --

20 A As she was handing it to me.

21 Q So she told you about the conversation as
22 she was handing you the letter?

1 A Yes.

2 Q And what did she ask you to do with respect
3 to the letter?

4 A They had sent over a suggested approval
5 letter, and she wanted me to examine it and make a
6 recommendation about it, as to whether we could
7 approve it and submit it or whether we'd write our
8 own or disapprove it or whatever. And in looking at
9 it, I decided I didn't feel secure in saying the
10 savings and loans -- domestic savings and loans could
11 issue preferred stock since it was not provided for
12 in the statutory framework of their authority.

13 And I suggested in a memo -- which must be
14 somewhere in the securities department files, I don't
15 know, I didn't keep a copy of it, or don't have one
16 now certainly -- that we submit the whole issue to
17 the Attorney General since in Arkansas, department
18 heads are permitted to rely upon an opinion of an
19 Attorney General, at least until it's overruled by a
20 court, without getting any sort of personal liability
21 for their action.

22 And I thought that that would -- if the

1 Attorney General was willing to sign off on this
2 proposition, then it was no skin off my back, but I
3 wasn't going to say that they could do what they were
4 requesting.

5 Q Now, I'm going to -- since you don't have
6 these letters in front of you, I will read you a
7 portion of the letter, a letter dated April 30th,
8 1985, and marked for identification as 0000084. It's
9 a letter to Mr. Charles Hanley regarding authorized
10 issuance of a class of preferred stock by Madison
11 Guaranty, a savings and loan chartered under the laws
12 of the state of Arkansas.

13 And the first paragraph, first sentence
14 reads as follows: "Dear Mr. Hanley, Madison
15 Guaranty, a savings and loan chartered under the laws
16 of the state of Arkansas, contemplates a
17 capitalization plan whereby it would authorize and
18 issue a class of nonvoting preferred stock which
19 would have preference as to dividends and amounts
20 paid in liquidation."

21 Now that's the first sentence. Do you
22 recall that?

1 A No, that doesn't ring any bell, but that
2 was probably what they said. That would have -- he
3 was the chief examiner of the department and did the
4 day-to-day supervision of savings and loans.

5 Q Mr. Hanley was?

6 A Yes, and they would have probably addressed
7 the letter to him.

8 Q Now, what were your duties in the
9 department at that time?

10 A Well, hard to say really. I was one of the
11 few attorneys around at that point, and whenever any
12 legal points came up, I was generally involved.
13 Although, as I say, it was mostly with regard to
14 broker/dealer and securities registration problems,
15 and I did very few savings and loan affairs. And
16 this was one of the very few, and I got it mostly
17 because I guess I was a senior attorney, other than
18 Beverly herself, who was in the department that knew
19 anything about the laws of Arkansas.

20 Q Was Mr. Hanley an attorney?

21 A No, he was an accountant. He had been
22 doing that for so many years that he, well, knew the

1 thing forward and backward, and he was a pretty good
2 source of information and had a good memory about
3 things that had happened in the department. He was a
4 fairly young fellow, but he had never done anything
5 else, and that had been one of his specialties in the
6 department.

7 Q All right. Now, I'm going to read to you
8 the third sentence of that first paragraph.

9 A All right.

10 Q Which is -- which states the rationale of
11 the -- which starts to state the rationale for the
12 Rose Law Firm's position on the issuance of this
13 stock.

14 It states as follows, "for the reasons
15 stated below we are of the opinion that a state
16 chartered savings and loan may do so. Arkansas
17 Statute 67 section 1864 (1971) provides in part,
18 pertinent part: The Arkansas Business Corporation Act
19 as amended shall be applicable to permanent stock
20 savings and loan associations created or operating
21 under the operations of Act 227 of 1963. And such
22 savings and loan association shall enjoy the same

1 power and privileges and be subject to the same
2 duties, restrictions and liabilities as other
3 corporations except so far as the same may be limited
4 or enlarged by the provisions of Act 227 of 1963."

5 Do you recall that being represented to you
6 in that letter?

7 A If it were in the letter, I saw it, but I
8 have no independent recollection of that sentence.

9 Q Well, do you recall, as a result of
10 Ms. Bassett handing you a copy of the letter and the
11 request, examining the sections referred to in the
12 letter, in particular the Business Corporation Act
13 and Act 227 of 1963, in order to conduct your
14 research?

15 A I'm sure I did and everyone was familiar
16 with those acts as they applied, really. They came
17 up all the time around the office in various
18 contexts.

19 The thing that I had in mind was, the
20 Supreme Court had made it very difficult for someone
21 not specifically covered by the corporate code to
22 rely on provisions in the corporate code when they

20

1 weren't in the laws that specifically addressed their
2 particular chapter of the enactments, because they
3 had all sorts of things.

4 For example, in insurance they had chapters
5 specifically for Blue Cross and Blue Shield and for
6 funeral homes and for limited stock companies and
7 just four or five different classes of corporations.
8 Plus you had securities -- I mean the savings and
9 loan provisions, and you had funeral homes were also
10 under the jurisdiction of the securities department.
11 And all of these had some provisions for corporate
12 government governance, I guess you'd say, in their
13 particular section, and the Supreme Court had muddled
14 the waters, as far as I was concerned, with the
15 decision in an insurance company case which made it,
16 I thought, risky to rely upon a general corporate
17 code without a specific authorization.

18 Q And the case you are referring to was what?

19 A Okay, just a second. It was Bailey versus
20 Jones, security commissioner, 1967 Arkansas Supreme
21 Court hearing case, which was heard on both direct
22 appeal and on rehearing petition and appears

1 primarily I guess at 419 Southwest 2nd 585 in two
2 different Arkansas Reporter citations: 242 Arkansas
3 668 and 243 Arkansas 431.

4 Q So it was your belief after your review of
5 that case, or based on your familiarity with it, that
6 the request for preferred stock -- for issuance of
7 preferred stock was not appropriate --

8 A I recommended that Beverly not put her name
9 down as saying that the statutes authorized that
10 without some sort of further assurance, say in the
11 form of the Attorney General's opinion --

12 Q So you thought it was --

13 A -- which I thought would be forthcoming.

14 Q Now, did you -- strike that.

15 Initially, what did she ask you to do? Did
16 she just ask you to review this, or did she ask you
17 to give her something in writing?

18 A Well, I think she anticipated that I would
19 simply rubber stamp the opinion that came over with
20 the request or make any corrections that we saw
21 necessary. But I didn't feel, and I explained in a
22 memo to her why I did not feel, that we were secure

1 in issuing an opinion saying that -- issuing
2 preferred stock on this tenuous argument they
3 advanced in their letter.

4 Q Now, were you aware at that time whether or
5 not issuance of preferred stock by an Arkansas
6 chartered savings and loan had ever been approved
7 before this request?

8 A I was told that it had not been. I'm sure
9 I discussed it with Mr. Hanley and got the
10 information from him.

11 Q So when you concluded that you did not
12 agree with the letter of the Rose Law Firm, the
13 request, how did you -- who did you convey your
14 conclusion to?

15 A Back to Ms. Bassett.

16 Q And that was in the form of a memorandum?

17 A Yes.

18 Q Now, did you draw up any letter on her
19 behalf to the Rose -- either the Rose Law Firm or the
20 bank with respect to your position?

21 A No.

22 Q Did you discuss this matter with Beverly

1 Bassett after you submitted the memorandum to her?

2 A I did not discuss it. She was not happy
3 with my response and made that clear. But as far as
4 I know, that was the end of it.

5 Q Well, when you say she was not happy with
6 your response, how do you know she was not happy with
7 your response?

8 A She indicated as much to me.

9 Q So you had a conversation with her about
10 your --

11 A I wouldn't call it a conversation, no.

12 Q Well, what did you say to her and what did
13 she say to you?

14 A She simply indicated that she was not happy
15 with my handling of that request, and probably along
16 with other things, and that was the end of it.

17 Q Well, what do you mean "along with other
18 things"?

19 A I don't know. Maybe she didn't like the
20 way I drank my coffee, I don't know.

21 Q So you submitted the memorandum to her.
22 She reviewed it in your presence I take it?

1 A No.

2 Q Then she had this conversation with you at
3 some time subsequent to reviewing the memorandum,
4 saying she wasn't happy with your result?

5 A Yes.

6 Q Yes?

7 A Yes.

8 Q And did she ask you to do anything more on
9 it after she told you she wasn't happy with the way
10 you handled it?

11 A No.

12 Q Did you discuss your research and your
13 conclusion with Mr. Hanley or Nancy Jones?

14 A I'm sure that informally I did. I did not
15 specifically, point by point in the memorandum,
16 defend it or discuss it with either of those two.

17 Q Well, did you discuss it with Hanley before
18 you submitted it to Beverly Bassett?

19 A I don't think I really did. I think I may
20 have told him what I had concluded, but I don't
21 remember specifically doing that either.

22 Q What was his response when you told him

1 that that was your conclusion?

2 A Well, I don't remember telling him that, so
3 I don't know that he ever responded to me exactly.

4 Q Did you talk to Ms. Jones about your
5 conclusion?

6 A No, I did not, and I don't remember her
7 being involved in this issue at all.

8 Q Did you talk to anyone else other than
9 Beverly Bassett about the conclusion you had come to?

10 A No, I can't remember discussing it with
11 anybody else.

12 Q Now, I'm going to read you a letter which
13 has been represented to us as being a letter from
14 Beverly Bassett to Hillary Rodham Clinton, dated May
15 14th, 1985. It's a document marked 000010786. It's
16 also marked as a House document, and I'm going to
17 read you --

18 A Before you do, may I ask you, is this the
19 same letter that you think the RTC showed me?

20 Q I believe it may be. It is a copy of the
21 letter that she sent you, although there is some
22 notations on it, but I believe the text of this

26

1 letter is what they showed you.

2 A Okay.

3 Q I'd like to read it to you to see whether
4 or not you agree with it.

5 (Discussion off the record.)

6 BY MR. GICALE:

7 Q We're back on the record. Now, as I
8 indicated previously, the letter is dated May 14th,
9 1985 and states as follows: "Dear Hillary, I have
10 reviewed your letter of April 30th, 1985 regarding
11 the proposed authorization and issuance by Madison of
12 a class of nonvoting preferred stock.

13 "I agree with your analysis and conclusion
14 of the question whether an Arkansas chartered savings
15 and loan association may under Arkansas law create,
16 authorize and issue a class of preferred stock.
17 Arkansas law expressly gives state chartered
18 associations all the powers given regular business
19 corporations under the Arkansas Business Corporation
20 Act including the power to authorize and issue
21 preferred stock.

22 "Further, there is no express prohibition

1 against such action contained in the Arkansas laws
2 governing building and loan, and savings and loan
3 associations.

4 "Accordingly, as the savings and loan
5 supervisor, I concur in your opinion that Madison's
6 proposed capitalization plan is not inconsistent with
7 Arkansas law."

8 Now, is that the letter that you recall
9 being shown to you by the RTC Inspector General?

10 A I think it is. I didn't memorize the
11 specific wording of the letter that they showed me,
12 but that sounds that it was, to that same end anyway
13 certainly.

14 Q Now, did you -- does your memorandum -- was
15 your memorandum consistent with this letter?

16 A No.

17 Q Did you ever -- did you draft this letter?

18 A No.

19 Q For Beverly Bassett?

20 A No.

21 Q Is this, the statement that states as
22 follows: "I agree with your analysis and conclusion

1 that an Arkansas chartered savings and loan
2 association may under Arkansas law create, authorize
3 and issue a class of preferred stock," is that
4 contrary to the opinion that you expressed in your
5 memorandum to Beverly Bassett regarding this request?

6 A In the sense that she says so with great
7 assurance and I was not at all that sure, and that's
8 why I requested that the matter be referred to the
9 Attorney General's office for their opinion on the
10 issue. I would not have made that statement, no.

11 Q And once again you did not prepare that
12 letter for Beverly Bassett?

13 A No. Someone on the staff may have. And it
14 sounds like a typical department letter in response
15 to some inquiry that, you know, we would say
16 something along those lines. Ms. Jones or Mr. Hanley
17 or someone like that could have drafted that letter.
18 I don't know.

19 Q But they did not do that at your request;
20 correct?

21 A No. Only Ms. Bassett could have made that
22 request.

1 Q When you say "made that request," you mean
2 responded?

3 A Well --

4 Q Oh, I'm sorry. You mean the request for
5 you to --

6 A Requesting for someone to draft that
7 statement. She didn't do it herself. I think she
8 could have done it herself and probably did, but if
9 she had somebody else do it, she would have been the
10 one making the request.

11 Q Do you ever remember any discussion with
12 Charles Hanley about the use of the wild card
13 provision of the Savings and Loan Act to allow for
14 this preferred stock?

15 A The wild card provision? You are referring
16 to something that allowed them to have a certain
17 percentage of assets not otherwise authorized by the
18 statute. Is that --

19 Q That's not what I'm referring to, but I am
20 asking the general question, was a wild card
21 provision of the Savings and Loan Act referred to by
22 Mr. Hanley as a possible --

30

1 A Well, that's what I was trying to clarify.
2 The only wild card provision that I remember ever
3 discussing with anyone in the department about
4 savings and loan had to do with the statutory
5 provision allowing for certain assets to be acquired
6 up to certain amounts and so forth and then there was
7 a wild card provision to cover a small percentage,
8 I've forgotten the percentage, but a small percentage
9 of the total assets not otherwise specified or in
10 excess of that specification. And that's the only
11 wild card provision I would be familiar with.

12 Q Now, Mr. Brady, I'm going to represent to
13 you that in a statement of Beverly Bassett-Schaffer,
14 she has indicated that in paragraph -- the second
15 full paragraph of a statement she gave, dated April
16 14th, 1994, she stated as follows --

17 MR. COLE: Let's just note for the record
18 that this is a statement she provided to the
19 Resolution Trust Corporation Inspector General's
20 office; is that correct, Mr. Gicale?

21 BY MR. GICALE:

22 Q I believe that's the case. It's marked for

1 identification as 0000084. In that statement, the
2 second full paragraph, she stated the following: "I
3 referred the matter to the ASD staff attorney, Bill
4 Brady, asking him to draft a letter to Hillary
5 Clinton concerning this matter."

6 Is that statement true, Mr. Brady?

7 A Well, as I believe it's consistent with
8 what I said at the beginning, that she gave me the
9 request and asked me to handle it.

10 Q Did she ask you to draft a letter to
11 Hillary Clinton concerning this matter?

12 A Draft, not specifically to Hillary, or more
13 properly I would think to the corporation, but --

14 Q Did she ask you to draft a letter?

15 A She never asked me to draft a letter, no.
16 What she did was hand me their request and ask me to
17 look at it and give her my opinion on it. And
18 normally that would have been, if the thing had been
19 acceptable, would simply have been to say yes, I
20 think we can issue you the requested letter clearing
21 the provision.

22 Q She goes on to say that "he drafted a

1 letter which I revised somewhat, signed and sent to
2 Hillary Clinton." Is that statement correct as you
3 recollect it?

4 A I don't -- as I say, I don't know who
5 drafted the letter you read me that she did send.
6 That was not my letter, and she may have forgotten
7 who drafted it or who formulated the letter, but no,
8 it was not my draft that she revised and sent on.

9 Q You did not draft a letter?

10 A No. May I explain just a minute?

11 Q Go ahead.

12 A You've got to understand that she signed --
13 her name was put to hundreds of opinion letters every
14 day or every week. She certainly didn't do that many
15 every day. But every week opinion letters went out,
16 approving letters went out over the signature or over
17 the name anyway of the commissioner, and so she
18 wouldn't necessarily be familiar some years afterward
19 with any particular opinion.

20 Q I understand. But, just so as to be clear,
21 you didn't draft a letter for her?

22 A I did not draft a letter. Someone else

1 could have, as I indicated.

2 Q Well, in any event the letter that I read
3 to you, the paragraphs that I read to you earlier
4 were not consistent with the memorandum that you
5 submitted to her?

6 A No, I would not have drafted that letter.

7 Q And the letter was not consistent with the
8 memorandum that you submitted to her; correct?

9 A That's correct.

10 Q I don't recall whether you stated this
11 before, but was Nancy Jones an attorney?

12 A No. She was an accountant. I think she
13 had her CPA license. Several people around the
14 office were CPAs. She was not -- she was a very
15 bright girl, and she knew all the language and so
16 forth and had been doing broker/dealer registration
17 for some time, and was very conversant with many of
18 the securities issues involved and the department's
19 regulations.

20 Q Did you have any other conversation with
21 Beverly Bassett after your conversation with her with
22 respect to your conclusions in this memorandum?

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1 A I'm sure that there was some -- well, there
2 were conversations but not about Madison, no.

3 Q And I meant to say about Madison.

4 A No.

5 Q Did you have any other responsibility for
6 any issues arising at Madison Guaranty?

7 A No, that was the only time I had anything
8 to do with Madison.

9 Q During this time period, or any time before
10 or subsequent, did you talk to anyone directly at
11 Madison or the Rose Law Firm about this request?

12 A No, neither. I talked to no one at Madison
13 nor at the Rose Firm.

14 Q Did you talk to Jim McDougal?

15 A No. Now, I know McDougal, and I've seen
16 him both before and after this incident, but not very
17 often. But no, I never -- you've got to understand.
18 McDougal wasn't competent to talk about things like
19 that. You wouldn't have bothered to talk to him
20 about that.

21 Q He wasn't competent to talk about things
22 like that?

1 A That's what I'm saying.

2 Q What was your relationship with McDougal
3 when you say you knew him?

4 A I just knew him socially. I'd met him at
5 parties and that sort of thing. I knew who he was.
6 I'd seen him around the state capital when he was
7 helping as adviser to some of the legislative
8 sessions.

9 Q Is he someone that you saw on a frequent
10 basis?

11 A No.

12 Q Would you have had occasion to call him at
13 his office?

14 A Never.

15 Q Or his home?

16 A No. But later on we did live, perhaps even
17 in the same -- I'm not sure. We lived in the Riviera
18 Apartments in Little Rock for a while, and his mother
19 lived there, I was told, and his cars were often
20 parked there. And I don't remember that I ever saw
21 him around the building, but his cars were there as
22 evidence that he was on the premises, you know. But

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1 that was, I'm pretty sure that was after the time
2 that I was with the securities department.

3 Q Now, you left the securities department how
4 long after this incident in 1985?

5 A What are the dates on those letters?

6 Q May of 1985 was the date of the letter to
7 Hillary Clinton.

8 A Well, April of '86 was when I went into the
9 securities department.

10 Q When in '86?

11 A April.

12 Q And why did you leave at that time?

13 A Oh, I had just been there long enough and
14 several commissioners had come and gone, and the ones
15 who had heard of me or that I'd been on best terms
16 with were not there, and so I just left.

17 Q Now, since offering this advice to Beverly
18 Bassett, have you had any other conversations with
19 her with respect to this matter?

20 A No. And as a matter of fact, I haven't
21 even seen her since I left the department. I've seen
22 her husband, I know him, but --

1 Q How well do you know her husband?

2 A Socially.

3 Q How frequently do you see him?

4 A Oh, I used to see him fairly frequently
5 because we had post office boxes in the downtown post
6 office, and he'd be in there picking up his mail, and
7 I'd see him just to say hello. But other than that,
8 I haven't seen him, and I haven't seen him in
9 probably 10 years.

10 Q Did you ever talk to him about this issue?

11 A Oh, no.

12 Q Have you talked to --

13 A They weren't even married then.

14 Q Have you talked to Mr. Hanley or Nancy
15 Jones about this issue since that time?

16 A No, I haven't. I think I started to call
17 Nancy when they first started nosing around, from the
18 federal -- what do you call it?

19 Q The RTC?

20 A RTC, the Resolution Trust, and find out if
21 she knew where files were and anything like that, but
22 I didn't even do that, I didn't follow up on that.

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1 Q So have you talked to anybody about this
2 issue, other than the RTC investigators, since you
3 wrote this memorandum to Beverly Bassett in 1985?

4 A No. The whole issue wasn't that big a deal
5 at the time, and I wouldn't have -- I mean nobody
6 would have known what I was talking about.

7 Q So that the only time that this came up
8 again was when you gave this statement to the RTC
9 Inspector General; is that correct?

10 A Yes.

11 Q And the statement, and I'm going to
12 represent to you that the one we have is dated May
13 18th, 1994 -- off the record for a second.

14 (Discussion off the record.)

15 BY MR. GICALE:

16 Q The statement that we have before us reads
17 as follows. It's labeled "Affidavit, Resolution
18 Trust Corporation, Office of Inspector General,
19 Office of Investigation. Date: May 18th, 1994.
20 City/State Jonesboro, Arkansas.

21 "I, William B. Brady, 1909 West Nettleton
22 Avenue, Jonesboro, Arkansas, having been duty" -- it

1 says duty, d-u-t-y, "sworn by Philip H. Sprague who
2 has identified himself as a special agent with the
3 Resolution Trust Corporation/Office of Inspector
4 General, having asked me to respond to questions
5 concerning my work at the Arkansas Securities
6 Department (ASD) Little Rock, Arkansas and the Rose
7 Law Firm, hereby solemnly swear to the following
8 voluntary statement.

9 "I began my employment at the ASD during
10 1979 as a staff attorney principally assigned to the
11 broker/dealer area. I remember Beverly Bassett, the
12 commissioner of ASD, giving me a Rose Law Firm letter
13 dated April 30th, 1985. Beverly Bassett informed me
14 that she had seen Hillary Clinton at a social
15 function, and Hillary Clinton informed her that the
16 Rose Law Firm was sending a letter to ASD concerning
17 the issuance of preferred stock by Madison Guaranty
18 Savings & Loan. Bassett subsequently gave me the
19 Rose Law Firm letter and instructed me to write an
20 approval letter.

21 "In researching this issue, I relied on my
22 past experience as an in-house counsel at an Arkansas

1 insurance company. While employed with the insurance
2 company, I was involved in a case concerning the
3 issue of corporate powers of those corporations not
4 under the Arkansas corporate code. This case went to
5 the Arkansas Supreme Court.

6 "Based on my experience with this case,
7 the more I looked into the Rose Law Firm request
8 concerning the issuance of preferred stock by Madison
9 Guaranty Savings & Loan, the less I supported the
10 position presented in the Rose Law Firm letter, dated
11 April 30th, 1985.

12 "My research revealed that the issuance of
13 preferred stock by an Arkansas chartered savings and
14 loan had never been approved before this request. I
15 specifically remember that I prepared a memorandum to
16 Beverly Bassett regarding the request from the Rose
17 Law Firm.

18 "In my memorandum, I stated that I did not
19 agree with the Rose Law Firm interpretation of the
20 Arkansas statute. Bassett did not agree with my
21 opinion as expressed in the memorandum. Following
22 the submission of my memorandum, I had nothing else

1 to do with the ASD handling of the request from the
2 Rose Law Firm.

3 "I have reviewed the May 14th, 1985 letter
4 by Beverly Bassett to Hillary Rodham Clinton. I did
5 not draft this letter. I am certain that I did not
6 draft the letter because the letter states, 'I agree
7 with your analysis and conclusion that an Arkansas
8 chartered savings and loan association may under
9 Arkansas law create, authorize, and issue a class of
10 preferred stock.' This statement was and is contrary
11 to the opinion that I expressed in my memorandum to
12 Bassett regarding the Rose Law Firm request.

13 "During the time that the Rose Law Firm
14 request was pending at ASD, I do not remember any
15 pressure being exerted on ASD due to Hillary
16 Clinton's position as the governor's wife. Hillary
17 Clinton's position as the governor's wife was never
18 an issue. I do not recall Hillary Clinton ever being
19 at the ASD offices.

20 "It was not unusual for people dealing
21 with ASD on preferred stock issues to, quote, 'drop'
22 names of influential people with what I would

1 describe as an attempt to influence a decision. I
2 know of no instance when 'name dropping' influenced a
3 decision.

4 "During my tenure with ASD, I never had
5 anything to do with the issue of Madison Guaranty
6 Savings & Loan's request to engage in brokerage
7 activities.

8 "I was once an associate of the Rose Law
9 Firm for about two or three years during the period
10 of 1961 to 1963.

11 "I have read the foregoing statement
12 consisting of two pages. The statement is true and
13 accurate to the best of my knowledge and belief. I
14 have initialed each page and all corrections."

15 And there's a place for your signature,
16 Mr. Brady. The statement that I just read to you, is
17 that a true and accurate reflection and to the best
18 of your knowledge and belief the facts as you --

19 A Yes, I made virtually the same statement
20 today. Some of the adjectives in there were theirs,
21 not mine, but they do not essentially change --

22 Q Okay. Which adjectives would you change?

1 A Oh, let's see. I don't even know where to
2 tell you to read the paragraph again. There was one
3 or two that struck me as being a little stronger than
4 I might have said, but anyway, they didn't amount to
5 anything.

6 Q Have you spoken to anyone from the Rose Law
7 Firm about this issue?

8 A No.

9 Q Have you spoken to anyone from the White
10 House about this issue?

11 A No.

12 Q Or any representative of the President or
13 his wife?

14 A No.

15 MR. GICALE: I have nothing further at this
16 point.

17 EXAMINATION

18 BY MR. COLE:

19 Q Mr. Brady, this is Lance Cole. I'd like to
20 ask you a few additional questions, if I could, sir.

21 A All right.

22 Q Going back to your first discussion with

1 Ms. Bassett-Schaffer when she gave to you a letter
2 from the Rose Law Firm. I heard you to say that the
3 letter was signed by two attorneys at the Rose Law
4 Firm whose names you did not recognize. Is that your
5 recollection?

6 A Yes, it is. Now, whether they signed the
7 cover letter I do not know, but some place in it
8 there was an indication that it came from their
9 corporate department, and two people's names, my
10 recollection were on the -- were in the letter
11 someplace, indicating that they had prepared it. I
12 don't know whether they signed it or not.

13 Q Let me tell you the source of my confusion
14 on that point. The letter that we have, which is
15 dated April 30th, 1985, addressed to Mr. Hanley, and
16 Mr. Gicale read you a good portion of that letter, is
17 signed Rose Law Firm but the last sentence of the
18 letter on page 2 says, "should you require further
19 information or assistance, please advise Hillary
20 Rodham Clinton or Richard Massey of this firm."

21 And I was curious as to whether those were
22 the names that you referred to, because I would have

1 expected that you would have recognized --

2 A I did not know Massey. I of course knew
3 who Hillary was, and I'm not -- those may have been
4 the two names. I just remembered them coming from
5 people whom I did not regard as corporate authorities
6 in the firm.

7 Q I see. So it's possible that these were
8 the two names that you were referring to --

9 A Could have been.

10 Q -- in your initial testimony. And do you
11 have any knowledge that any other attorney from the
12 Rose Law Firm, other than Ms. Clinton or Mr. Massey,
13 worked on this matter?

14 A I have no knowledge of it. Unless it
15 appeared someplace in the accompanying material that
16 they sent over. They sent a draft, for example, of
17 proposed -- the letter they wanted the department to
18 issue. They went into more detail than I think you
19 all read earlier. And whether that was just a cover
20 letter to their memorandum of law, I don't know. I
21 don't have any of the file before me and I couldn't
22 tell you.

1 Q I understand and of course we only have
2 what we've been provided by third parties, but this
3 letter appears to stand on its own. It includes
4 legal analysis. Do you recall that a form of
5 approval letter was in the package that you were
6 provided?

7 A Yes.

8 Q So your recollection is that the Rose Law
9 Firm had prepared a form of approval letter, and that
10 was something that was given to you?

11 A That's standard practice, people sending in
12 requests for approval letters to draft their own
13 version of it.

14 Q Do you have any knowledge as to whether the
15 other letter that Mr. Gicale read to you, that would
16 be the letter dated May 14th, 1985 that went out over
17 Ms. Bassett's signature to Hillary Rodham Clinton at
18 the Rose Law Firm, could have been an executed
19 version of the form of approval letter that the Rose
20 Law Firm had submitted?

21 A I don't think it was. It sounded too much
22 like a form response that the department used to

1 make, and I don't think it is the letter that they
2 submitted. It was more personal and so forth.

3 Q Going back to your initial discussion, and
4 I'll refer to her as Ms. Bassett. That was her name
5 at the time, correct?

6 A She wasn't married then.

7 Q What did she say to you regarding the
8 discussion that she had had with Ms. Clinton at the
9 party?

10 A Just that she had had one and it had been
11 indicated to her that requests for department
12 approval were coming over.

13 Q And did she indicate to you that this
14 request should be given any special treatment because
15 it was coming from Ms. Clinton?

16 A No. She made no indication that because
17 the governor's wife had asked for it that we should
18 do it, no, if that's what you are asking.

19 Q Yes, that's exactly what I'm asking.

20 A It was I saw X, Y and Z who represents
21 Merrill, Lynch, Pierce and they said they were
22 requesting, you know, and here is the material, and

1 see if we can do that or whatever.

2 Q And did you feel that you were expected to
3 treat this in any way different than the normal
4 processing of this kind of request as a result of
5 your discussion with Ms. Bassett?

6 A Well, no, I did not. And if I had felt
7 under any compulsion at all, I probably wouldn't have
8 done it, but I certainly -- because if you look at
9 the memorandum I wrote, I did not agree with it.

10 Q Right. I would assume that that's pretty
11 strong evidence that you were not giving this
12 particular application any special treatment, if I'm
13 understanding what you did correctly?

14 A Well, I think you're correct.

15 Q Unfortunately, we haven't located a copy of
16 that memorandum, at least to the best of my
17 knowledge.

18 MR. COLE: Do you have a copy of it,
19 Mr. Gicale?

20 MR. GICALE: No.

21 THE WITNESS: As far as I know, it may not
22 exist. It may have made the wastepaper basket in

1 Beverly's office is about as far as it might have
2 gone.

3 BY MR. COLE:

4 Q Now, you indicated that you were obviously
5 an attorney, but that Ms. Jones and Mr. Hanley were
6 not attorneys on the staff of the securities
7 department; is that correct?

8 A That's correct.

9 Q Other than yourself and Ms. Bassett -- who
10 was an attorney at that time; correct?

11 A Yes.

12 Q Were there any other attorneys on the
13 staff?

14 A From time to time there were a couple of
15 others. Jim Pitts, who now resides in Washington and
16 is with the controller of the currency, I think, or
17 that's what he went up there to be. I assume he's
18 still with them, was kind of the chief legal attorney
19 for the department when I got there, and left.

20 We had moved several times, the offices of
21 the department had moved several times and the time
22 I'm talking about we were down on Markham Street in

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1 Little Rock, having moved from the Capitol grounds.
2 And at that time the attorney who is now up here in
3 Jonesboro -- in fact, Jim Burton came on board for a
4 short while, and it's kind of a political patronage
5 appointment, and real nice fellow. And he later came
6 back to Jonesboro to be city attorney and has
7 something to do with the Democratic party here in
8 this county.

9 And there may have been one or two others,
10 but I really don't remember who they were. If I were
11 going down the department list of personnel I could
12 tell you, but none of them stayed around very long.

13 Q But focusing on the period late April and
14 early May 1985 when this request was submitted, were
15 you and Ms. Bassett the only two attorneys on the
16 staff at that time? And the reason I'm asking the
17 question --

18 A I just don't know. It seems to me we were,
19 but I don't know. There could have been somebody
20 else technically on the staff or filling the position
21 that wasn't there every day. I just don't know.

22 Q But my purpose in asking the question is in

1 understanding why Ms. Bassett may have asked you to
2 become involved in this when the letter from the Rose
3 Law Firm was directed to Mr. Hanley. Am I correct in
4 understanding that that may have been because you
5 were an attorney and this presented a legal issue?

6 A I would assume, but I, of course, don't
7 know.

8 Q And you --

9 A Actually, Hanley's procedure in cases like
10 that, when he was asked to render what he considered
11 legal, take a legal position or render a legal
12 opinion, would be to refer it to the legal staff.

13 Q And at the time the legal staff was
14 yourself?

15 A As far as I know, yes.

16 Q And you explained for Mr. Gicale, and I
17 won't ask you to repeat it, your analysis of the
18 issue that was presented in terms of the power to
19 issue or the authority to issue this preferred stock
20 and the concerns that you had. Am I correct that
21 your recollection is that you explained that in the
22 memorandum that you submitted to Ms. Bassett?

1 A I would hope that I undertook to do so,
2 yes.

3 Q And although I believe you testified that
4 you did not discuss the memorandum in detail with
5 Ms. Bassett, it was your understanding that she had
6 received and read the memorandum; is that correct?

7 A Ultimately, yes.

8 Q And did Ms. Bassett, as an attorney and the
9 head of the department, if she agreed with the
10 analysis of the Rose Law Firm and did not agree with
11 your analysis, did she have the authority to send out
12 this letter and approve the proposal without going to
13 the Attorney General as you had recommended?

14 A Yes. Actually she could have done anything
15 she wanted, you know, and she chose to issue that
16 letter I take it.

17 Q And what you were recommending was to seek
18 advice because you thought that this was a closer
19 question than --

20 A Well, it was certainly a novel question. A
21 question of first impression and why should we stick
22 our necks out, you know, for McDougal.

1 Q And so your recommendation was to get an
2 opinion from the Attorney General which would have
3 supported the department if the opinion was
4 favorable?

5 A Whatever the Attorney General said, we
6 would have been supported by the opinion if we did
7 what he said, you know, which I anticipated would be
8 the same, no, you can't do it. But they were asking,
9 so I don't know what was --

10 Q The Rose Law Firm, I take it, had
11 represented clients before the securities department
12 at other times in your experience there; is that
13 correct?

14 A I'm sure they did, but I have no specific
15 recollection of a client that they would have. Now,
16 the bank department had been split out from the
17 securities department by that time, and so we no
18 longer would have met them as representing any banks,
19 but I think Joe Jirard, who had done a lot of
20 securities work with the firm, had left and was on
21 his own at this time and so I don't know how much
22 work they did with the department. I would say not

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1 as much probably as they had done in previous years.

2 Q Had you been involved in matters, while at
3 the department, in which the Rose Law Firm was
4 representing parties other than the one we've been
5 discussing today?

6 A I'm sure I may have, but I really don't
7 specifically -- none come to mind, but I'm sure that
8 they must have been on some other things that came
9 across my desk. There were only about three or four
10 large law firms in Little Rock at that time and very
11 few of them had many securities matters. Some of
12 them had savings and loan matters, that sort of
13 thing. I just don't know, you know, what it would
14 have been. I can't say they didn't. And I don't
15 have any specific recollection of any dealings with
16 any of them.

17 Q And the fact that you had been employed by
18 the Rose Law Firm a long time previously, some I
19 guess 20 years previously, was not a factor that
20 would have affected whether or not you would have
21 been comfortable handling matters that the Rose Law
22 Firm was submitting to the securities department, no

1 conflict or --

2 A No conflict. Nothing that I did back there
3 when I was with the firm and that sort of thing. I
4 was trying to think. The only -- I think the closest
5 I had connections with the law firm while I was
6 there -- Nancy Jones had some questions about the
7 uniform securities what do you call it, not the
8 uniform -- the uniform gift to minors that was
9 modified and some broker/dealer in town questioned
10 how that affected the holding of stocks or the
11 building of stocks, something of the sort, by
12 minors. Phil Carol at the Rose Firm -- by the way,
13 it's always been called the Rose Firm even when it
14 was Rose, Meek, House, Barron, Nash & Williamson
15 before.

16 But anyway, he was on the American Bar
17 Association committee that was trying to get it
18 passed in Arkansas legislature, and we put some of
19 those questions that the broker/dealer had to him and
20 decided there was no conflict, no problem with the
21 act. I mean, that sort of thing would come up from
22 time to time, but not specifically problems.

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1 Q My only question went to whether your prior
2 association with the Rose Firm affected your ability
3 to be involved in matters --

4 A No.

5 Q -- that also involved them before the
6 department.

7 A No, I felt no restriction because nothing,
8 as I say, came up that indicated in any way that it
9 was one of my former clients.

10 Q And do you know whether Ms. Bassett
11 consulted with others in the department after she
12 received your memorandum and before she signed the
13 letter of May 14th, 1985?

14 A I have no recollection of anyone saying
15 anything at all about it to indicate that she had
16 said anything to them about it or asked their advice
17 or anything, you know. No, I don't know what she did
18 other than you have read me in the letter she
19 ultimately sent.

20 Q As I understand your recollection of the
21 events that you've testified to here, essentially
22 Ms. Bassett did not take the recommendation that you

1 gave to her in your memorandum.

2 Were there other instances, during your
3 employment, while she was the securities department
4 head that she did not take your advice on matters
5 involving securities law issues?

6 A I can't remember any. Normally, I think
7 the department presented a pretty unified front in
8 the interpretation of securities laws and regulations
9 and that sort of thing. I don't remember anything
10 that any of us violently disagreed with.

11 Q Well, you indicated near the close of your
12 testimony that this was not a big deal at the time,
13 and this I think is a reference to the matter that
14 we've been discussing. What did you mean by that?

15 A Well, it was pretty low key. They sent
16 over a request. Even after we said yes, nothing
17 happened. As far as I know they never utilized that
18 opinion as backup or anything for issuing that kind
19 of stock, and what I read in the papers, they never
20 did. But it was just another -- we turned down or
21 answered or approved requests every day on bond
22 issues and that sort of thing, and this was just

1 another request as far as I was concerned.

2 Q Well, going to the issue that a lot of
3 people are most interested in with respect to this
4 issue, I'd like to go back to your affidavit, and
5 Mr. Gicale had read the entire thing to you. I'd
6 like to focus on the second full paragraph on page 2
7 where you say, "during the time that the Rose Law
8 Firm request was pending at the Arkansas Securities
9 Department, I do not remember any pressure being
10 exerted on Arkansas Securities Department due to
11 Hillary Clinton's position as the governor's wife."

12 And I believe you indicated that that
13 correctly stated your current recollection of events;
14 is that correct?

15 A Yes.

16 Q And you also stated that Hillary Clinton's
17 position as the governor's wife was never an issue.

18 So it's your recollection that at the time
19 this was considered, at least in terms of what you
20 perceived, the fact that the governor's wife was
21 involved in this legal matter did not influence its
22 handling by the securities department to the best of

1 your knowledge.

2 A To the best of my knowledge, that's
3 correct. Let me add this, if I might. I think
4 everybody in the department knew that Madison was not
5 the strongest financial institution in the state, and
6 that they might be having troubles, and we
7 sympathized somewhat with their attempts to
8 strengthen their financial position.

9 But on the other hand, I at least did not
10 think that we ought to permit them to do things that
11 would later turn out to be beyond their corporate
12 powers to do, you know. That would involve --

13 MR. GICALE: Can you repeat the last part
14 of that, the stenographer could not --

15 THE WITNESS: Well, that would have gotten
16 the department in more difficulty, if we'd allowed
17 them to do something that was illegal, than if we had
18 called their hand and not allowed them to raise
19 additional capital.

20 BY MR. COLE:

21 Q Bear with me for a moment. I'm looking for
22 a document here.

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1 Do you recall whether there was any
2 discussion within the department as to whether
3 Madison had the authority to issue this preferred
4 stock without even seeking the approval of the
5 department?

6 A No. I never heard that question discussed,
7 no. Which also would indicate, I think, that they --
8 someone else had raised the problem, perhaps some
9 underwriter, stock underwriter or someone who would
10 be handling the issue as to whether they had
11 authority to do it. Normally if you have the
12 authority and the authorization to do it, you'd
13 simply do it and notify the department. This was
14 something I think everyone recognized as a novel
15 question.

16 Q You also indicated in your -- in the May
17 18th, 1994 affidavit that you provided to the
18 Resolution Trust Corporation, that you don't recall
19 Hillary Clinton ever being at the Arkansas Securities
20 Department offices; is that correct?

21 A That is correct.

22 Q Is the only time, to your recollection,

1 that Hillary Clinton's name came up with this matter
2 was when Ms. Bassett handed you the letter or handed
3 you the letter and told you she had seen Ms. Clinton
4 at a party?

5 A Yes.

6 Q And so there was no subsequent discussion
7 of Ms. Clinton or her involvement in this matter
8 after that discussion with Ms. Bassett; is that
9 correct?

10 A No. Well, I lost track of it. What I'm
11 saying is, nothing further was said about
12 Ms. Clinton, Ms. Rodham Clinton, whatever, after I
13 got the letter. In fact I was surprised that a
14 senior partner in the firm was even bothering with
15 this request.

16 Q Are you aware of anyone from Madison or any
17 of the companies affiliated with Madison having used
18 Ms. Clinton's or Ms. Rodham Clinton's name in
19 discussions with the department about this matter?

20 A As far as I know this is the only incident
21 in which I was involved, while I was with the
22 securities department, that involved Madison or any

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1 of its subsidiaries.

2 Q Yes, and what I was really getting at was
3 whether, with respect to this particular matter.
4 That is the proposal to issue preferred stock, and
5 I'm going back to your affidavit where you said it
6 was not unusual for people dealing -- I'll quote.
7 "It was not unusual for people dealing with the
8 Arkansas Securities Department on preferred stock
9 issues to 'drop' names of influential people with
10 what I would describe as an attempt to influence a
11 decision. I know of no instance when name dropping
12 influenced a decision."

13 I just wanted to confirm that that included
14 this matter where Ms. Clinton was involved?

15 A Yes, and I would not restrict it to matters
16 of preferred stock since preferred stock didn't come
17 up very often. If they restricted my statement in
18 there, the Federal Resolution Trust statement to the
19 word "stock," I would say no, it went further than
20 that. Any kind of securities position, people were
21 always telling us that they knew so-and-so who bought
22 so many tickets to the, you know, or who donated so

1 much money to the campaign and we never paid any
2 attention.

3 Q And so no one told you in this instance
4 that you should approve this because the governor's
5 wife was involved?

6 A No, certainly not.

7 MR. COLE: I don't have anything further.

8 MR. GICALE: I have a few more questions,
9 Mr. Brady.

10 EXAMINATION

11 BY MR. GICALE:

12 Q One of the things that you said to Mr. Cole
13 was that everyone in the department knew that Madison
14 was not the strongest institution in the state.

15 When you made that statement, how common
16 was the knowledge and how was it that everybody knew
17 the status of Madison's financial condition?

18 A Well, I can't say that -- perhaps it's an
19 overstatement to say that everybody knew, but anyone
20 who paid any attention to Madison or any of the
21 things that they were undertaking would know that
22 that was not really the soundest financial

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1 institution in the state.

2 Q Well, how -- for instance, how did it come
3 up in your discussions in your department that you
4 were a party to?

5 A Well, we simply knew that the reason they
6 were trying to issue the preferred stock was to
7 increase the capitalization of the company to support
8 their operation, and that they were not generating
9 any profit from their operation.

10 Q Did you have that discussion with
11 Ms. Bassett or Mr. Hanley?

12 A Not specifically. I might have known it
13 from, I might have had it with Hanley. I didn't have
14 it with Ms. Bassett, no.

15 Q Well, did you obtain that information from
16 monthly or quarterly reports that Madison submitted
17 to the department?

18 A No, no. All you had to do was look at
19 their advertising, look who was running the company.
20 You knew that McDougal was no manager. You know,
21 just common knowledge.

22 Q So when you talk about common knowledge,

1 you are talking about common knowledge even outside
2 the securities department?

3 A Outside the department.

4 Q There was not a great deal of faith in
5 McDougal in the community then; is that correct?
6 There was some concern about his management of that
7 bank?

8 A Well, all I can tell you is that I used to
9 joke with people that I thought I'd go over to
10 Madison and take out a big loan so when it came time
11 to pay back they'd be in receivership.

12 Q And when you would make that kind of a joke
13 or statement, people understood or there was general
14 understanding about the condition of that bank at
15 that point in time?

16 A I would say so.

17 Q So your earlier statement had nothing to do
18 with any particular knowledge that you had within the
19 department but more common knowledge on the street?

20 A No.

21 Q Or was it a combination of both?

22 A Combination of street knowledge and

1 knowledge of the people involved and just other
2 people's concurrence in my estimation of the
3 situation.

4 Q And when you say the people involved, is
5 there someone other than McDougal that you had
6 concerns about?

7 A No. Well, the fact that Ms. McDougal --
8 the then Ms. McDougal's brothers were involved.

9 Q You are speaking of the Henley brothers?

10 A Yes.

11 Q And was it because of this knowledge that
12 you had in the community and knowledge you acquired
13 through the department that you were especially
14 sensitive to this request for preferred stock?

15 A The fact that they needed the money, I
16 didn't dispute that, you know, but how they were
17 going to raise it was somewhat a matter of concern
18 particularly as it would involve the Ultra Vires Act
19 and they would use that to defend when it came time
20 to pay off.

21 Q Okay. But did your concerns about the
22 condition of the bank, is that another reason why you

1 were cautious in terms of your approach and --

2 A I certainly felt the department ought to be
3 cautious and not put its name on something that might
4 later turn out to be highly controversial.

5 Q Well, earlier, a quote in your testimony
6 was, you did not see why the department should stick
7 their necks out for McDougal?

8 A That's right.

9 Q And was that based, that quote based on
10 your concerns at that time for the viability of that
11 bank and making a recommendation or conclusion --
12 agreeing with this recommendation for preferred stock
13 and putting the department in a bad position or bad
14 light, was that your concern at the time?

15 A It was one of the concerns, yes. You have
16 to realize, for example, about this time those
17 Washington power bonds were found to be ultra vires,
18 remember that. Washington state, the contracts to
19 build -- the bonds issued to build the nuclear power
20 stations out there, the major underwriters in the
21 country had signed on to that and the courts threw it
22 out. At least three I think were in trouble. And

1 what was it, Western Power Authority or something,
2 one of the federal cases, and I could see us getting
3 involved in a situation along those lines, yes.

4 Q Now, did you know that Beverly Bassett had
5 previously represented Madison prior to coming to the
6 securities department?

7 A No. I knew that she had been with, what is
8 it, I don't even remember what the name of the firm
9 was now, Mitchell --

10 Q The Mitchell firm?

11 A Well, yeah, you could call it the Mitchell
12 firm. There are so many names in it now. But I
13 remember that she had been a member of that firm.
14 When I asked people what she had done over there,
15 securities work was not one of the things they
16 mentioned, and I really didn't have any idea that
17 they had ever represented McDougal on anything. No,
18 I did not know that.

19 Q McDougal or Madison Guaranty; correct?

20 A Correct.

21 Q Now, two more questions. At one point in
22 time when Mr. Cole asked you about Beverly Bassett

1 reviewing your memorandum, you said something like
2 "ultimately I believe she did and she got back to
3 me." Was there some delay between the time that you
4 gave this to her, a long delay between the time --

5 A Wait a minute. What did I say?

6 Q You responded by saying, ultimately yes,
7 she did review it or she looked at it, the
8 memorandum. Was there some kind of delay between, a
9 long delay between the time that you gave her a
10 response and the time that she gave, she responded to
11 you about your conclusions?

12 A Actually nothing was said about the
13 conclusions, my memo or her ultimate disposition of
14 the file for, as far as I knew, a long time. I did
15 not know that she had ever formally closed the file
16 with that approval letter.

17 Q Okay.

18 A So I guess the answer would be, there was a
19 long delay before she got back.

20 Q Do you know how long it was before she got
21 back to you?

22 A Yes. How long, I don't remember, but

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1 obviously it was months, I think, before anything
2 more was said about it.

3 Q Do you know how it came up or why it came
4 up?

5 A Why it came up later?

6 Q Yes.

7 A No.

8 Q Now, earlier you also referred to an
9 individual by the name of Jim Pitts who is now
10 working for the controller of the currency. Have you
11 had any discussions with him about this matter?

12 A No. I haven't seen Jim in, oh, 10 or 15
13 years, I guess.

14 MR. COLE: And I thought I understood
15 Mr. Brady to testify that Mr. Pitts was not working
16 in the department at the time this matter was being
17 handled. Is that correct, Mr. Brady?

18 THE WITNESS: He had long since gone.

19 MR. GICALE: I have nothing further.

20 EXAMINATION

21 BY MR. COLE:

22 Q I just have one final brief area of

1 inquiry, Mr. Brady.

2 A Okay.

3 Q I believe you testified that you left the
4 securities department in April 1986; is that correct?

5 A Yes.

6 Q And was Ms. Bassett still the head of the
7 department at that time?

8 A Yes.

9 Q Did she ask you to leave, or did you leave
10 at your own initiative?

11 A Oh, I think we both decided the time had
12 come for me to move on. I'd been there quite a
13 little while, and there was actually not that many
14 openings above, you know, base salary. We just
15 decided that it was time for me to go.

16 Q Did she indicate any dissatisfaction with
17 your work while you were with the department?

18 A No. As I indicated, she didn't like the
19 way I'd handled this request, but --

20 Q Did she bring that up at the time you left
21 the department?

22 A I'm sure that's when it came up.

1 Q Were there other matters that came up at
2 that time?

3 A None that spring particularly to mind. I
4 think she just generally not happy with me and I
5 wasn't happy with her and it was fine with both of
6 us.

7 Q I'm pausing because I want to choose my
8 words carefully here. But did you and Ms. Bassett
9 have difficulty getting along on a personal level?

10 A Yes and no. I was there for what, about a
11 year or so while she was commissioner.

12 Q I'm not sure exactly when she became
13 commissioner.

14 A I don't either. I can't remember. I
15 certainly had more pleasant relations with the other
16 commissioners and remember them more fondly than I do
17 with Beverly, but she didn't see me probably at my
18 best either. I don't know. I was getting
19 dissatisfied with the work there and so forth.

20 Q And finally just to conclude, you indicated
21 that you didn't know for some period of time that she
22 had issued the letter in May approving the preferred

1 stock issuance; is that correct?

2 A Until -- and I guess the first I knew of it
3 was when the Resolution Trust attorney showed it to
4 me. I'm sure that's the one they showed me.

5 Q So we have documents here, and I'm not
6 going to take the time to read them into the record,
7 indicating subsequent correspondence relating to the
8 preferred stock proposal with the Rose Law Firm,
9 directed to Mr. Hanley, and perhaps others. I would
10 have to go through the file. You were not aware of
11 any of that correspondence at the time?

12 A No.

13 Q So essentially you had no further
14 involvement in this matter after the memorandum that
15 you submitted to Ms. Bassett?

16 A That's correct.

17 MR. COLE: I don't have anything further.

18 MR. GICALE: I don't have anything
19 further. Thank you, Mr. Brady.

20 (Discussion off the record.)

21 MR. COLE: I just wanted to clarify so that
22 there is no misimpression left by the record -- that

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1 the matters we discussed moments ago, after going off
2 the record, related to logistics and travel plans
3 that have since been canceled and did not indicate
4 any substantive information that was being conveyed
5 by Mr. Brady with relation to this matter.

6 MR. GICALE: That's correct.

7 THE WITNESS: That's correct.

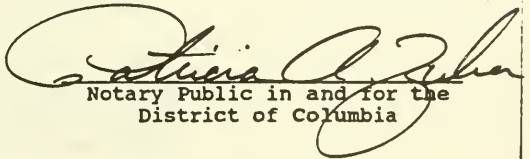
8 (Whereupon, at 3:46 p.m., the deposition
9 was concluded.)

10
11 -----
12 WILLIAM BURT BRADY
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF BOBBY J. NASH
IN RE: S. RES. 120**

TUESDAY, DECEMBER 12, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of BOBBY J. NASH, called for examination pursuant to notice of deposition, at 2:35 p.m. in Room 640-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

RICHARD A. SIMPSON, Esq.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania, Avenue, NW
Washington, DC 20004-2688

TODD D. PETERSON, Esq.
The George Washington University
The National Law Center
716 Twentieth Street, NW
Washington, DC 20052
On behalf of the Deponent.

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P R O C E E D I N G S

MR. GIUFFRA: Good afternoon, Mr. Nash. My name is Robert Giuffra, chief counsel of the Senate Banking Committee. To my left is Neal Kravitz, who is principal deputy special counsel for the Minority. You understand that this is a deposition that's being conducted pursuant to Senate Resolution 120.

This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation and public hearings involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance Authority and other related matters.

Our procedure today will be, I will ask you a series of questions and then Mr. Kravitz will ask you a series of questions. You'll be testifying under oath. If you don't understand a question let me know and I'll rephrase it. If you need a break again let me know and we'll take a break.

You have a right to be represented by

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counsel. I see you have chosen to be represented by counsel.

THE WITNESS: Yes.

MR. GIUFFRA: If counsel would state an appearance for the record.

MR. SIMPSON: Richard Simpson of Ross, Dixon & Masback on behalf of the witness.

MR. PETERSON: Todd Peterson from The George Washington University Law School.

MR. GIUFFRA: You are also representing Mr. Nash?

MR. PETERSON: That's correct.

MR. GIUFFRA: Our procedures are as set forth in Senate Resolution 120. Have you got a copy of that?

MR. SIMPSON: Yes.

MR. GIUFFRA: As stated, objections to the form of questions can be noted for the record. You can object also on grounds of privilege or relevance and then ultimately the chairman will rule on objections. We received a letter from Mr. Simpson dated December 11 reflecting a communication he had

1 with Alice Fisher of the Special Committee indicating
2 that we will not be questioning about specific ADFA
3 transactions.

4 MR. SIMPSON: Yes.

5 MR. GIUFFRA: You understand that we may
6 have to come back for a subsequent deposition,
7 Mr. Nash?

8 THE WITNESS: Yes, I do.

9 MR. GIUFFRA: That's fine with you?

10 THE WITNESS: That's fine with me.

11 MR. GIUFFRA: But we may go into other
12 matters covered by the resolution, but not the
13 specific ADFA transaction issue.

14 MR. SIMPSON: My understanding was that you
15 may ask background questions such as the witness's
16 positions at ADFA and those kinds of things, but not
17 get into any specific ADFA transactions.

18 MR. GIUFFRA: That's correct, but we may
19 ask questions about his knowledge of Whitewater or
20 Madison. Is that fine with you, Mr. Nash?

21 THE WITNESS: That's fine with me.
22 Whereupon,

1 BOBBY J. NASH

2 was called as a witness and, having first been duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. GIUFFRA:

6 Q Mr. Nash, would you please state your full
7 name for the record.

8 A Bobby J. Nash.

9
10
11 Q It's Nash, N-a-s-h?

12 A Yes, sir.

13 Q Now, if you could just describe your
14 employment history, going backwards with your present
15 position and then going let's say up until when you
16 graduated from college.

17 A Starting with my current position?

18 Q Correct.

19 A My current position is assistant to the
20 President and director of presidential personnel,
21 where I am responsible for recruiting noncareer
22 people into the government. Prior to that, I was

1 undersecretary for small communities and rural
2 development at the U.S. Department of Agriculture,
3 where I was responsible for rural development
4 activities of USDA.

5 Prior to that --

6 Q When did you become assistant to the
7 President, director of presidential personnel?

8 A In about February or March of this year,
9 1995.

10 Q And you joined the Department of
11 Agriculture when?

12 A It was in 1993, and I would say I was
13 confirmed in about May of 1993.

14 Q Were you assistant secretary?

15 A Undersecretary.

16 Q Oh, you were undersecretary of
17 agriculture.

18 A Uh-huh. But I was at the department before
19 I was confirmed. I was a special assistant to the
20 acting undersecretary for about maybe like a month
21 and a half, getting ready for confirmation. And I
22 believe I was confirmed in May of '93, I think, and

1 then I served from May of '93 until I came to
2 presidential personnel, which was in February or
3 March of this year, 1995.

4 Q Now, prior to joining the Department of
5 Agriculture, what position did you hold?

6 A Prior to joining the Department of
7 Agriculture, I was in presidential personnel again, I
8 was -- my title was either associate director or
9 deputy director. I can't remember which one, but
10 there were about three deputies or associates, and I
11 was one of those three. And I went to work there
12 January 20, 1993.

13 Q You held that position for approximately
14 three months?

15 A Until I went to agriculture.

16 Q And you reported it Mr. Lindsey, Bruce
17 Lindsey?

18 A No, I reported to Jan Piercy.

19 Q Wasn't Bruce Lindsey the director?

20 A He was personnel director. Jan Piercy was
21 a deputy also, but she was like a senior deputy. It
22 was Jan Piercy and then there were three associate --

1 I forget the exact title. There was Bruce Lindsey,
2 Jan Piercy and then three associate directors.

3 Q What position did you hold before you
4 joined the office of presidential personnel on
5 January 20, 1993?

6 A I was a deputy personnel director in the
7 transition office here in Washington, D.C. when Dick
8 Riley was the transition personnel director.

9 Q That would have been November, December,
10 January?

11 A That would have been -- I got up here
12 before the end of the year so it was like late
13 November or early December, and I stayed there until,
14 over on Vermont Avenue, until the first day of the
15 Administration, January 20, 1993.

16 Q And what position did you hold prior to
17 joining the presidential transition team?

18 A Before that I was president of the Arkansas
19 Development Finance Authority in Little Rock,
20 Arkansas.

21 Q When did you become president of ADFA?

22 A In 1989, it was the beginning of '89, like

10

1 January or February of 1989.

2 Q And you had that position through '92?

3 A Yes, I had that position up until I left
4 Little Rock to go to work for the transition over on
5 Vermont Avenue.

6 Q Prior to joining ADFA, what position did
7 you hold?

8 A Prior to that position, I was senior
9 executive assistant to the governor of the state of
10 Arkansas for economic development.

11 Q And did anyone work for you when you held
12 that position?

13 A Work for me?

14 Q Yes.

15 A Yes.

16 Q Who worked for you?

17 A Let's see if I can remember. One was Phil
18 Price, who was my, I guess you would call Phil my top
19 assistant. I'm not sure what his title was. Phil
20 Price. Another person was Suzanne Smith, who was
21 like an administrative assistant. Another person was
22 Phyllis -- let me think. Her name changed. Her name

1 is Phyllis Anderson. It may not have been Phyllis
2 Anderson then, I think it was something else, but her
3 name now is Phyllis Anderson. Ruth Eaglin, who was a
4 secretary. Now, these people I'm naming, they did
5 not work for me the same time. I worked there for --
6 I went to work there in 1982.

7 Q 1982 through 1989?

8 A Yeah.

9 Q You were the senior economic assistant --
10 senior executive assistant to the governor for
11 economic development?

12 A That's right. Now, my title may have
13 changed during that period of time, but I was doing
14 basically the same work.

15 Q What was the nature of the work that you
16 were performing during the period 1982-89 as senior
17 executive assistant to the governor for economic
18 development?

19 A I was the senior policy adviser for
20 economic development in the office of the governor,
21 so I had policy development responsibility in the
22 area of economic development.

12

1 Q What were some of the types of activities
2 you would have been involved in during this period,
3 1982 to 1989, just generally?

4 A Trying to figure out ways to increase the
5 number of jobs in the state, particularly in the
6 areas of hired employment, trying to help develop
7 policies to get industry to move to the state,
8 attempting to develop new financing vehicles to
9 finance economic development in the state, to try to
10 find ways to develop new programs to train people who
11 were unemployed or underemployed, to try to help
12 existing business expand. Those are the kinds of
13 things that I did as economic adviser.

14 Q During this period 1982 to 1989, did you
15 work with ADFA?

16 A Yes. One of my responsibilities in this
17 job was to be liaison from the governor's office to
18 all of the agencies that had to do with economic
19 development.

20 Q What agencies were those?

21 A The Arkansas Development Finance Authority,
22 the Arkansas Employment Security Division, Arkansas

1 Department of Labor, the Arkansas Industrial
2 Development Commission. There may have been others,
3 but I can't remember. Those are the main ones I
4 know.

5 Q Did you work with the Arkansas securities
6 commission at all?

7 A No. I think that was somebody else. That
8 was not one of mine.

9 Q As senior executive assistant to the
10 governor for economic development, who did you report
11 to?

12 A Chief of staff, Betsey Wright. I think
13 there may have been more than one chief of staff in
14 the time I was there. In fact, there was somebody
15 else.

16 Q How many other senior executive assistants
17 to the governor were there?

18 MR. SIMPSON: Do you mean at any one time?

19 MR. GIUFFRA: Roughly.

20 BY MR. GIUFFRA:

21 Q I'm just trying to get a sense, were there
22 three of you, five of you, 10 of you, for different

14

1 program areas, I assume?

2 A I would say it could have been two or
3 three. I remember Carol Rasco, Carol Rasco was
4 another one. She didn't come to work when I came to
5 work, but she was a senior economic -- not economic.
6 Senior something else. Senior was in her title and
7 that may have been one another one, too. I can't
8 remember. It wasn't like 10. Maybe two or three.

9 Q What kind of contact did you have with
10 Governor Clinton during this period, daily contact,
11 weekly contact, monthly contact?

12 A At least weekly. Not every day, but at
13 least weekly.

14 Q How close was your office to the governor's
15 office, physical proximity?

16 A Let me put it like this. I could get up
17 out of my chair and walk to his office and be there
18 in probably 10 seconds.

19 Q Did you travel with Governor Clinton on a
20 regular basis?

21 A Yes, I did.

22 Q This would be throughout Arkansas and

1 sometimes outside Arkansas?

2 A Throughout Arkansas and sometimes outside
3 of Arkansas.

4 Q How frequently did you travel with the
5 governor?

6 A I would say during the first part of my
7 work there, which I would count as from '82 to '85,
8 not a lot, maybe in a month it might be three to four
9 times, maybe a little more, maybe a little less.
10 After '85 it was probably more like a month it would
11 be six to seven to eight in that range, where I would
12 travel with him either in the state, out of state.

13 MR. GIUFFRA: Off the record.

14 (Discussion off the record.)

15 BY MR. GIUFFRA:

16 Q Back on the record.

17 Prior to joining the governor's office in
18 '82, what position did you hold?

19 A I was Vice President of the Winthrop
20 Rockefeller Foundation in Little Rock, Arkansas.

21 Q For how long did you hold that position?

22 A Six or seven years. I was there from like

1 the mid-'70s until I went to work in the governor's
2 office.

3 Q And prior to joining the Rockefeller
4 Foundation?

5 A I worked for the state of Arkansas, and I
6 worked for the Arkansas department of planning, which
7 was a state agency, which David Pryor --

8 Q This would have been in the early '70s?

9 A Yeah, this would have been like in the
10 early '70s.

11 Q Right out of college?

12 A No, no. This would have been like '73,
13 '74. But I worked for -- it was -- who is the
14 senior Senator from Arkansas?

15 Q Bumpers.

16 A Bumpers. So it would have been Pryor, so
17 in the Pryor administration, I was the director of,
18 like, community development. That may not be the
19 exact title, in the Pryor administration, which is a
20 state agency, and then that was like doing water and
21 sewer and housing and rural development and those
22 kinds of things in rural Arkansas. Do you want me to

1 go on through --

2 Q Sure.

3 A Then before that I lived here in
4 Washington, D.C. and I worked for the National
5 Training Service, which is like a nonprofit
6 organization here in Washington, that did training
7 for state and local officials around the country, and
8 I was the administrative person, I did the budget,
9 personnel, all of that, for that agency.

10 Then before that I was an administrative
11 assistant to the city manager in Fairfax, Virginia
12 for, I forget what it was, about a year. It was part
13 of a management intern program that I was involved
14 in. I was going to school at night, graduate school
15 at Howard University. And then before that I was an
16 administrative assistant to the deputy mayor of
17 Washington, D.C. during the day, went to school at
18 night.

19 Before that I was back in Arkansas and I
20 was -- because I came here to go to graduate school
21 and to work. And before that in Arkansas I worked
22 for the Arkansas state employment service, and I was

1 a counselor, I helped people, low income people, get
2 jobs in Miller County. Then before then I was in
3 undergraduate school.

4 Q I think that's far enough. Where did you
5 get your undergraduate degree?

6 A At the University of Arkansas at Pine
7 Bluff, in Pine Bluff, Arkansas.

8 Q When did you first meet Governor Clinton?

9 A I believe it was when he was running for
10 Attorney General, and I believe that was either in
11 '74 or '76 but I saw him in a rope line, I was in
12 like -- like a rally and he was coming down the rope
13 line and I reached over and shook his hand. That was
14 the first time I met him, I think.

15 Q When did you have a more extensive contact
16 with Governor Clinton? Did you work on his campaigns
17 in the late '70s?

18 A No.

19 Q So the first contact would have been in
20 '82?

21 A No. The first contact was -- other than
22 just like seeing him at big speeches or rope lines

1 and things like that, was I was on the board of the
2 state -- what is now ADFA was then the state housing
3 finance agency. And David Pryor was governor. I was
4 working -- I was vice president of the Rockefeller
5 Foundation, and David Pryor put me on as a board
6 member on the state housing agency. That was in the
7 late '70s.

8 And I remember there was a debate about
9 mortgage revenue bonds, and he was very supportive of
10 mortgage revenue bonds and I was very supportive of
11 mortgage revenue bonds, and there was going to be
12 some testimony here before House Ways and Means, and
13 I was scheduled to come up to testify in support of
14 continuing mortgage revenue bonds. And he was going
15 to testify, along with a bunch of other people from
16 Arkansas, I don't know how many, five, six, seven,
17 whatever.

18 And in getting ready for that testimony,
19 there was a meeting that I went to one time where
20 there was probably I don't know how many people, but
21 it wasn't like hundreds like you normally have at a
22 rally, it was the people who were going to testify at

20

1 the House Ways and Means Committee and maybe a few
2 other staffers.

3 In that room, that's where I sort of had
4 contact other than these large gatherings.

5 Q When would that have been again, what year?

6 A It would have been -- let's see. His first
7 term -- we had two-year terms for a while. It would
8 have been -- his first term would have been 1979 and
9 he went for two years so it was '79 and '80 so it
10 would have been between '79 and '80. That's the time
11 period when this meeting occurred and the testimony,
12 which we eventually came to Washington, I testified,
13 he testified, a bunch of other people testified. So
14 that was the first time.

15 Q And you subsequently, then, had a close
16 relationship with Governor Clinton?

17 A Well, subsequently to that -- let's see,
18 his 19 -- I'm trying to think. He got beat after his
19 first term, whenever that was, and then he ran again
20 in the '82 and then I volunteered in his '82
21 gubernatorial campaign.

22 Q Do you know a man named James McDougal?

1 A Yes, I do.

2 Q When did you first meet James McDougal?

3 A I first met James McDougal when he was a
4 staff member for Governor Clinton during his first
5 governor's term.

6 Q After you became senior executive assistant
7 to the governor for economic development, did you
8 have occasion to come in contact with Mr. McDougal
9 again?

10 A After I became senior executive assistant?

11 Q After 1982?

12 A Yes. Yes, I did.

13 Q Do you recall any of the contacts you might
14 have had with Mr. McDougal?

15 A I remember one particular contact, and then
16 there may have been others like again at rallies or
17 chamber dinners or things like that, which I'm sure
18 he probably was at some of those meetings, but when I
19 say meetings, events, luncheons, chamber, things like
20 that.

21 But in particular, I remember stopping by
22 his office, which was a trailer, at sometime when I

22

1 was on the governor's staff.

2 Q Do you recall the year?

3 A I don't recall the specific year.

4 Q 1986?

5 A It could have been '86, but I'm not sure.

6 The reason I say it could have been '86 is because I
7 remember that when I was out with the governor, it
8 was on economic development, industrial development,
9 those kinds of things, and because '85 was sort of a
10 banner year in terms of new programs for economic
11 development and I was out more than before, than like
12 before -- from '85 earlier it was less. From '85
13 later it was more.

14 So I would say that probably it was between
15 '85 and '89.

16 Q Do you think it was closer to '85 or closer
17 to '89, if you can recall? '85-86?

18 A I would say it may have been -- it may have
19 been closer to '85 because when we passed all these
20 programs in '85, there was a big effort to get the
21 word out, to really just talk about these new
22 financing programs all around the state and we were

1 out a lot, so I would guess that it would have been
2 closer to '85 or '86 than '89 or '90, although I
3 wasn't there in '90.

4 Q Now, you had mentioned that you had gone to
5 McDougal's office, or where was his office?

6 A This office was outside of Little Rock, I
7 don't know how many miles, maybe like five, six,
8 maybe even 10, I'm not really sure. No, not 10.
9 Could be 10, but it's like there was a development, a
10 subdivision development out there.

11 Q What was it called?

12 A I can't think of the name of it now. It
13 was advertised a lot on TV, though, but I can't think
14 of it. If I think of it later I'll tell you.

15 Q Castle Grande?

16 A I don't recall that being it. It could be,
17 though.

18 Q Does that sound familiar, Castle Grande?

19 A No, that doesn't sound familiar. I think
20 it was something else, but I can't tell you what it
21 is now.

22 Q Do you recall what his office looked like?

1 Was it a trailer?

2 A His office, where he was, was a trailer,
3 like a house trailer like people live in.

4 Q And how far -- strike that.

5 Was it Maple Creek Farms?

6 A That's it. Maple Creek Farms.

7 Q It was a house trailer located on a
8 development called Maple Creek Farms?

9 A Well, I'm not -- it was out there. I mean,
10 it was out -- Maple Creek Farms is between Little
11 Rock and Pine Bluff. That's the name of that
12 subdivision. And the office was out there between
13 Little Rock and Pine Bluff so I guess it's in the
14 same area. But I'm not sure whether his office
15 was --

16 Q Was the office located in the development
17 or was it located someplace closer to Little Rock?

18 A I don't remember.

19 Q Was he president of the Madison Guaranty
20 Savings & Loan Association at this time, McDougal?

21 A I don't remember whether he was or not. I
22 don't know.

1 Q Do you recall whether it was a cold time of
2 the year or warm time of the year when you would have
3 visited Mr. McDougal?

4 A I vaguely remember it being not cold
5 because I don't remember having on a coat.

6 Q And again, your best estimate is somewhere
7 between five and 10 miles from Little Rock would have
8 been the location of this trailer office?

9 A Yes.

10 Q Was the trailer on something called 145th
11 Street?

12 A It could have been. 145th Street is out in
13 that area. That's like an industrial park outside,
14 it's like even further than the suburbs, but 145th
15 Street is out there close to where this development
16 is, this Maple Creek Farms subdivision. And I also
17 remember that out there that this trailer was out by
18 145th Street. I don't know whether it was on 145th
19 or not.

20 Q About how far was the trailer from the
21 governor's mansion?

22 A Well, probably about the same, five or 10

1 miles, because Little Rock is pretty small so the
2 governor's mansion is right there sort of. I mean,
3 it could have been a mile more or something or a mile
4 less.

5 Q And the same thing with the capitol?

6 A It's all right there together. Everything
7 is within almost walking distance, I mean downtown.
8 Well, the governor's mansion from the capitol is
9 probably a mile to a mile and a half away.

10 Q Now, when you visited Mr. McDougal, was
11 Governor Clinton with you?

12 A Yes, I remember that he was.

13 Q And could you just describe for us the
14 circumstances -- strike that.

15 Just describe for us how you came to visit
16 Mr. McDougal in his trailer with Governor Clinton.

17 A I don't know specifically, but let me tell
18 you what I remember. Governor Clinton and I had gone
19 to some sort of event. I don't know what the event
20 was, but it had to be something related to business
21 or industrial development because that's what I did
22 when I worked with him.

- 1 Q Who was with you at the time in the car?
2 A A state trooper.
3 Q Do you remember the name of the trooper?
4 A I sure don't.
5 Q Was it L.D. Brown?
6 A I can't be for sure.
7 Q Do you know L.D. Brown?
8 A I do.
9 Q Was he someone who sometimes accompanied
10 the governor on trips?
11 A Yes, he did.
12 Q So he might have been the driver of the
13 car?
14 A He might have been.
15 Q Can you think of any other troopers who
16 might have been driving the car?
17 A There were about four or five troopers who
18 would drive him, and it could have been either one of
19 those four or five.
20 Q Could you give the names of those troopers
21 for the record?
22 A I'm trying to think if I can remember.
-

- 1 Parker, last name Parker. I forget his first name.
2 Young, Buddy Young. I'm trying to think about
3 everybody that was driving then. I can't remember
4 the other names, but there were a handful of them. I
5 just can't remember, it's been so long ago.
6 Q Do you recall whether this meeting with
7 Mr. McDougal was in the morning or the afternoon or
8 evening?
9 A I don't remember. I remember it was during
10 the day. I mean, it could have been in the morning,
11 could have been in the afternoon. I remember that we
12 left that day from the capitol going to whatever this
13 event was, and it had to be probably short because I
14 remember going back -- when I say short, it wasn't
15 like in Fayetteville which would take four hours to
16 get there, because we went back to the capitol, I
17 remember, before the end of the day and there was
18 still work time as I remember it.
19 Q When did you learn that you would be
20 meeting with Mr. McDougal on this day?
21 A As I remember it, we just decided to stop
22 by. I don't remember it being on the schedule. In

1 fact, I remember looking, vaguely, looking for the
2 office. We were coming back and we stopped, we must
3 have been coming back from the area of Pine Bluff,
4 which is like south of Little Rock, because this
5 place is between Little Rock and Pine Bluff. And we
6 stopped there for a few minutes -- I'm trying to
7 think. Yeah, it was coming back from an event,
8 that's right.

9 Q Do you remember who made the decision to
10 stop at McDougal's trailer?

11 A I don't remember specifically who did.

12 Q Do you think it was the governor?

13 A I don't know. There were only three of us
14 in the car.

15 Q The trooper --

16 A The trooper, me and the governor so one of
17 us must have suggested it.

18 Q And probably you can exclude the trooper
19 from the equation; right? The trooper wouldn't make
20 a decision to stop at Mr. McDougal's trailer; right?

21 A He wouldn't decide to stop. He might
22 suggest stopping.

1 Q You can't think of any reason why a trooper
2 would want to stop at Mr. McDougal's trailer?

3 A I can't think of a reason. I have been in
4 the car where they have suggested stopping at places.

5 Q Now, prior to this meeting at the trailer,
6 had you had any dealings with Mr. McDougal that you
7 can recall?

8 MR. KRAVITZ: What do you mean by
9 "dealings"?

10 BY MR. GIUFFRA:

11 Q Contacts, communications, meetings.

12 A I met him when he was on the governor's
13 staff his first term.

14 Q But you don't recall having any
15 conversations, meetings, contacts with Mr. McDougal
16 prior to going to the trailer with the governor?

17 A No, I do not.

18 Q So by process of elimination, do you think
19 it's reasonable to assume that probably it was the
20 governor who suggested that you stop at
21 Mr. McDougal's trailer?

22 MR. SIMPSON: Object to the form. You may

1 answer.

2 THE WITNESS: I don't remember specifically
3 who. Someone in the car must have. You know, we
4 didn't just sort of amble up there. I remember
5 looking for the trailer. I remember finding a
6 trailer or an office and stopping there, so I assume
7 that either the governor or me suggested stopping
8 there, but I don't remember suggesting stopping
9 there.

10 BY MR. GIUFFRA:

11 Q Do you recall anything about the
12 conversation you might have had with the governor
13 during the car ride over to the trailer?

14 A No.

15 Q Now, when you arrived at the trailer, did
16 you go inside the trailer?

17 A Yes.

18 Q So you went in the trailer and the governor
19 went in the trailer?

20 A Yes.

21 Q And did the trooper go in the trailer?

22 A I don't think the trooper went in the

1 trailer. I don't remember the trooper going in the
2 trailer at first. I think he may have come in the
3 trailer to say we're running late, because we were
4 always running late, and said let's go. I vaguely
5 remember him coming in the trailer or coming up on
6 the -- something, the steps or whatever the devil it
7 was you got up in the trailer, but I'm not sure
8 whether he came inside or whether he just came there
9 and said let's go, one or the other.

10 Q Was there anyone else in the trailer when
11 you arrived?

12 A I remember when we went in the trailer
13 there was McDougal and then there was a woman who was
14 sitting at a desk that you could see down through the
15 trailer, I forget how far back, but I could see a
16 woman at the desk.

17 Q Do you remember what she looked like?

18 A No, I don't know.

19 Q Or what McDougal looked like at this time?

20 A I don't remember specifically what he --
21 when you say what he looked like, I'm not sure what
22 you mean.

1 Q Was he bald? Was he tall, was he skinny?

2 A I don't know.

3 Q But you knew it was Jim McDougal?

4 A Oh, yeah.

5 Q Was there anyone else present in the
6 trailer?

7 MR. KRAVITZ: You mean in addition to the
8 woman?

9 BY MR. GIUFFRA:

10 Q In addition to the woman, McDougal,
11 yourself and the governor.

12 A I did not see anyone else.

13 Q Now, inside the trailer was there a desk?

14 A Where, you mean -- where?

15 Q Somewhere in the trailer.

16 A Well, the only reason -- I will say there
17 probably was because I remember it being like an
18 office as opposed to a place where you live with a
19 bed and stuff. So I'm just assuming -- I remember it
20 being an office, so I would guess there was a desk.

21 Q Do you recall seeing any leather chairs in
22 the trailer?

1 A Oh, I wouldn't -- no. I mean, I don't
2 remember. I wouldn't remember.

3 Q What do you recall about what occurred
4 during this meeting you had with the governor,
5 Mr. McDougal and yourself in the trailer?

6 A I vaguely remember him being surprised that
7 we walked in. I remember --

8 Q That's McDougal was surprised?

9 A McDougal --

10 Q Was surprised that you had entered the
11 trailer?

12 A As I remember it, McDougal seemed to be
13 surprised.

14 Q So it was not a planned meeting as far as
15 you know?

16 A As far as I know, it was not a planned
17 meeting.

18 Q And then what happened, what occurred
19 during this meeting?

20 A As I remember it, pleasantries were
21 exchanged and I remember a discussion about blue
22 jeans, blue jeans, because there was a blue jean

1 factory close, Levi Strauss has a blue jean factory
2 out there, and in some sort of way that subject came
3 up. That's about the only thing specific I can
4 remember.

5 Q What do you recall about this blue jean
6 factory?

7 MR. SIMPSON: About the discussion in the
8 trailer?

9 MR. GIUFFRA: Yes, yes.

10 BY MR. GIUFFRA:

11 Q Anything more? Was McDougal interested in
12 investing in the blue jean factory?

13 A I don't know.

14 Q Do you recall any discussion of Whitewater
15 Development Corporation during this meeting in the
16 trailer with the governor and Mr. McDougal?

17 A No.

18 Q Do you recall any discussion of Madison
19 Guaranty during this meeting with the governor and
20 Mr. McDougal in the trailer?

21 A No.

22 Q Do you recall any discussion of something

1 called Capital Management Services during the meeting
2 in the trailer?

3 A No, I don't.

4 Q Do you recall any discussion of Susan
5 McDougal during the meeting in the trailer?

6 A I don't think --

7 MR. KRAVITZ: Do you mean other than in the
8 course of pleasantries?

9 MR. GIUFFRA: Either way.

10 THE WITNESS: What I was referring to. He
11 may have asked how his wife was doing.

12 BY MR. GIUFFRA:

13 Q This is the governor?

14 A One of us may have asked that.

15 Q Do you recall any discussion of any
16 companies that Ms. McDougal might have been involved
17 with?

18 A No, I don't.

19 Q Do you recall any discussions of something
20 called Master Marketing?

21 A No, I don't.

22 Q When you say you don't recall, that means

1 you have absolutely no recollection?

2 A That means I have no recollection of that.

3 Q Why do you recall this meeting in the
4 trailer with Mr. McDougal as you sit here today?

5 MR. SIMPSON: Object to the form.

6 BY MR. GIUFFRA:

7 Q Is there anything about the meeting that
8 stood out in your memory?

9 A No. I can remember when we were out on the
10 road -- excuse me just a second.

11 MR. KRAVITZ: Off the record for a minute.
12 (Discussion off the record.)

13 MR. GIUFFRA: What was the last question,
14 please?

15 (The reporter read the record as requested.)

16 THE WITNESS: And we would always stop at a
17 roadside park, a service station, somebody's house, a
18 fruit stand, he would always do that and talk to
19 people. He loved doing it so it was not unusual.

20 BY MR. GIUFFRA:

21 Q Why do you remember this particular visit
22 to Mr. McDougal's trailer?

1 A Well, one of the reasons I remember it is
2 that some time ago, Bruce Lindsey asked me, did I
3 remember going to an office that was McDougal's
4 office with the governor, and I said yes, that I did
5 remember that I thought. That's how I remember.

6 Q What was the context in which Mr. Lindsey
7 asked you if you had any recollection of going with
8 the governor to Mr. McDougal's trailer?

9 A I don't understand. The context?

10 Q Do you recall when Mr. Lindsey asked you
11 about any meetings you might have gone to with the
12 governor and Mr. McDougal?

13 A Well, it's been probably -- I remember it
14 being when I was at agriculture.

15 Q Sometime in 1983 -- '93, excuse me.

16 A Probably.

17 MR. SIMPSON: Off the record.

18 MR. KRAVITZ: Let's take a five-minute
19 break.

20 (Recess.)

21 MR. GIUFFRA: What was the last question
22 and answer?

1 (The reporter read the record as requested.)

2 BY MR. GIUFFRA:

3 Q Do you know why Mr. Lindsey asked you
4 whether you had attended any meetings with the
5 governor and Mr. McDougal?

6 MR. SIMPSON: Object to the form as calling
7 for speculation about what's someone else's intent.

8 BY MR. GIUFFRA:

9 Q Did you have any understanding as to why
10 Mr. Lindsey had contacted you about any meetings the
11 governor might have had with Mr. McDougal?

12 A I did not know why he asked me.

13 Q Did he say he had spoken with the governor
14 and the governor had told him that he recollected
15 attending a meeting at the McDougal trailer with you
16 and Mr. McDougal?

17 A No, he did not say that to me.

18 Q So the President's name did not come up as
19 a possible explanation for why you might be the
20 person to speak to about this meeting?

21 A No, the President's name did not come up.

22 Q Did Mr. Lindsey state anything to you about

40

1 why he was coming to you about this meeting?

2 A No, he did not.

3 Q What exactly do you recall him saying?

4 A I can't remember the exact words because
5 it's been a while back, and I'm not quite sure
6 exactly how long, but it was when I was Ag, I do
7 remember that fairly well.

8 Q Did he call you on the telephone?

9 A I believe he called me on the telephone.

10 Q What do you recall him saying?

11 A I don't recall the specific words, but it
12 was do you remember being at a meeting with Governor
13 Clinton at an office McDougal had that was a trailer,
14 and I said yeah, I think I remember that. And then
15 he said do you know who was there, and I said I
16 remember it was Clinton and McDougal and me. And I
17 think that's basically what I said. And he said oh,
18 okay, and that was it that I remember.

19 Q Do you recall anything more about the
20 conversation with Mr. Lindsey?

21 A No, I don't.

22 Q Have you spoken to anybody else at the

1 White House about this meeting you had with the
2 governor and Mr. McDougal in Mr. McDougal's trailer?

3 A No, I haven't.

4 Q Did you ever speak to the President about
5 this meeting?

6 A No, I haven't.

7 Q Did Mr. Lindsey ask you whether David Hale
8 was present at the meeting between the governor and
9 Mr. McDougal in Mr. McDougal's trailer?

10 A No, I don't remember him asking me whether
11 Mr. Hale was at this meeting in the trailer.

12 Q Do you ever recall any discussion of
13 Mr. Hale during the conversation with Mr. Lindsey?

14 A No, I do not.

15 Q Do you know Mr. Hale?

16 A Yes, I do.

17 Q How do you know Mr. Hale, what's the
18 context?

19 A How do I know Mr. Hale?

20 Q Yes.

21 A He's a prominent figure. He was a
22 prominent figure in central Arkansas. He was a judge

1 so he was at a lot of these business industrial
2 events, chamber luncheons, those kinds of things that
3 people go to so that's how I know him.

4 Q Do you recall any meetings between
5 Mr. Hale -- strike that.

6 Do you recall being present at any meetings
7 between Governor Clinton and Mr. Hale?

8 A No, I do not recall a meeting like that.

9 Q Do you recall any occasions when Mr. Hale
10 visited the governor's office?

11 A No, I do not recall that.

12 Q Do you recall any other meetings between
13 the governor and Mr. McDougal other than the one
14 you've testified to at the trailer?

15 MR. SIMPSON: Mr. McDougal you're asking
16 about?

17 MR. GIUFFRA: Yes.

18 MR. KRAVITZ: Can I just ask for a
19 clarification? When you use the word "meeting," do
20 you mean sitting across the table and actually
21 sitting down and talking about something or do you
22 mean running into each other at some political event

1 or some party or anything like that?

2 MR. GIUFFRA: Strike that and we'll
3 rephrase.

4 BY MR. GIUFFRA:

5 Q Do you recall any other contacts between
6 Governor Clinton and Mr. McDougal during your tenure
7 as senior executive assistant to the governor for
8 economic development?

9 A No, I do not.

10 Q So the only meeting you can recall or
11 contact is this meeting in the trailer sometime in
12 '85 or '86?

13 MR. SIMPSON: Let me object.

14 MR. KRAVITZ: Hold on one second. I don't
15 think that that accurately characterizes his
16 testimony.

17 MR. SIMPSON: The same objection.

18 MR. KRAVITZ: In terms of the time of the
19 meeting.

20 THE WITNESS: Your question?

21 BY MR. GIUFFRA:

22 Q Do you recall any other contacts between

1 Governor Clinton and Mr. McDougal other than the
2 contact you've testified to here today at the
3 trailer?

4 A I don't recall any others. And I assume
5 your questions were not related to where there are a
6 thousand people. I don't even recall that but there
7 may have been a meeting where he was there and the
8 governor was there, McDougal was there and the
9 governor was there, but I don't even remember that.
10 But I bet there was.

11 Q Did you ever discuss Mr. McDougal with
12 Governor Clinton that you can recall?

13 A No, I never did.

14 Q Did Mr. McDougal ever call you up on any
15 occasion that you can recall?

16 A No, not that I recall.

17 Q Do you recall ever meeting with him?

18 MR. SIMPSON: Other than --

19 BY MR. GIUFFRA:

20 Q Other than the meeting in the trailer.

21 MR. SIMPSON: Meetings with McDougal?

22 MR. GIUFFRA: Yes.

1 THE WITNESS: No, I do not.

2 BY MR. GIUFFRA:

3 Q Do you recall ever speaking with Mr. Hale
4 by telephone when you were in the governor's office?

5 A I could have. I don't remember
6 specifically.

7 Q Why do you think you might have had
8 communications with Mr. Hale?

9 A Because I was involved in economic
10 development and he was involved in economic
11 development and he was a prominent figure in central
12 Arkansas.

13 Q Did you ever have any contact or dealing
14 with his firm called Capital Management Services,
15 Inc.?

16 A I remember trying to find out what it did
17 at one time. I don't remember exactly when.

18 Q Going back to the meeting in the trailer,
19 your best recollection is that the discussion
20 involved a blue jean factory that was located nearby
21 the trailer?

22 MR. SIMPSON: Let me object. I mean, he

1 testified to pleasantries and being able to remember
2 the blue jeans as one topic.

3 BY MR. GIUFFRA:

4 Q But you recall the blue jeans as being a
5 topic of the meeting?

6 A I vaguely remember that being mentioned.

7 Q Do you recall anything more about the blue
8 jeans factory being mentioned?

9 A No.

10 Q And you don't remember any other subjects
11 that might have been discussed at this meeting at the
12 trailer at 145th Street?

13 A Other than hello, how are you, that kind of
14 thing.

15 Q Do you think there might have been other
16 subjects that were discussed during this meeting?

17 MR. SIMPSON: Object to the form.

18 MR. KRAVITZ: Why don't you rephrase that
19 question so it's not speculative.

20 BY MR. GIUFFRA:

21 Q Do you have any understanding as to whether
22 there might have been other subjects discussed at the

1 meeting? The question stands.

2 MR. SIMPSON: Object to the form as calling
3 for speculation.

4 THE WITNESS: Ask the question again.

5 BY MR. GIUFFRA:

6 Q Do you believe, other than pleasantries,
7 that the blue jean factory was the only subject
8 discussed at this meeting at the trailer at 145th
9 Street?

10 A I don't remember.

11 Q Could other subjects have been discussed at
12 this meeting?

13 A I don't remember that there were.

14 Q But is it possible that other subjects
15 might have been discussed?

16 MR. SIMPSON: Object to the form.

17 THE WITNESS: I don't know.

18 BY MR. GIUFFRA:

19 Q You don't know?

20 A I don't know.

21 Q Do you recall how long the meeting was?

22 A Oh, I don't specifically, but it probably

1 was short only because as I remember it, it was not
2 scheduled, and I don't remember sitting down
3 specifically, sitting down.

4 Q Do you recall if the meeting was an hour?

5 A I don't think it was anywhere close to an
6 hour.

7 Q Would you say a half hour?

8 A No. I don't know specifically. If I were
9 guessing I might say it might have been five or 10
10 minutes, but I'm not sure.

11 Q Do you have any recollection as to whether
12 the governor knew where the trailer was located?

13 A I recall us looking for it so I don't think
14 anybody knew as far -- I think everybody knew that
15 there was a -- this development, you called it a few
16 minutes ago --

17 Q Maple Creek Farms.

18 A Maple Creek Farms was out there because it
19 was advertised on TV like every week, I forget when,
20 but it was. So I think probably everybody in the car
21 knew that Maple Creek Farms was out there, but I
22 remember us looking for it, everybody, the three

1 people in the car were trying to figure out where it
2 was. I vaguely remember that.

3 Q Do you have any understanding as to whether
4 Governor Clinton had ever been to this trailer on
5 other occasions?

6 A Do I have any understanding?

7 Q Yes.

8 A No.

9 Q Did it appear to you that the governor had
10 ever been to the trailer before, based on what
11 Mr. McDougal or the governor said?

12 A Did it appear to me? Ask the question once
13 more.

14 Q Do you have any understanding as to whether
15 the governor had ever been to this trailer before?

16 A I have no understanding that he had been to
17 the trailer before this meeting.

18 Q Other than the meeting with Mr. Lindsey, do
19 you recall any other occasions at which you discussed
20 with anyone -- strike that.

21 Other than the telephone conversation with
22 Mr. Lindsey, do you recall any other occasions on

1 which you've discussed this meeting in the trailer
2 between Governor Clinton and Mr. McDougal?

3 MR. SIMPSON: Other than counsel?

4 MR. GIUFFRA: Yes.

5 THE WITNESS: Yes. I want to say it was
6 with Bruce Lindsey.

7 BY MR. GIUFFRA:

8 Q A second conversation with Mr. Lindsey?

9 A Yes. I want to say it was around
10 Thanksgiving, either before Thanksgiving or after,
11 I'm not real sure, this past Thanksgiving.

12 Q Oh, 1995?

13 A Yes.

14 Q What did Mr. Lindsey say to you?

15 A He had just asked me did I remember him
16 asking me about a meeting that the governor had in a
17 trailer with me and McDougal, and I said yeah, I do
18 remember that.

19 Q Do you have any understanding as to why
20 Mr. Lindsey was asking you whether he had asked you
21 about this meeting between the governor and
22 Mr. McDougal?

1 A No.

2 Q Did he indicate that he had been questioned
3 by the Senate Special Committee about his
4 communications with you with regard to this meeting?

5 A No.

6 Q Do you recall any other occasions -- strike
7 that.

8 I apologize if I've asked this question
9 before, but do you have any understanding or
10 recollection as to whether Mr. McDougal ever visited
11 the governor's office during the time you were there?

12 A Ever visited the governor's office while I
13 was working in his office?

14 Q Yes.

15 A I don't recall a time where McDougal
16 visited the governor's office while I was working at
17 the governor's office.

18 Q You don't ever recall seeing him in the
19 office?

20 A No, I do not.

21 Q Do you ever recall seeing him in the
22 governor's mansion, McDougal?

1 A I don't recall ever seeing him in the
2 governor's mansion.

3 Q Did you have any contact with Madison
4 Guaranty Savings & Loan Association in connection
5 with your responsibilities as a senior executive
6 assistant to the governor for economic development?

7 A No, I had no contact with Madison Guaranty
8 in my role as that.

9 Q When did you first learn of the fact that
10 President and Mrs. Clinton had an investment in
11 something called Whitewater Development Corporation?

12 A At some time during the 1992 Presidential
13 campaign.

14 Q So it's your testimony that you don't
15 recall any discussion of the President's investment
16 in Whitewater Development Corporation prior to 1992?

17 A That's correct.

18 Q I'll just ask you another question about
19 the meeting in the trailer. Did you discuss this
20 meeting in the trailer with Betsey Wright on any
21 occasion?

22 A No, I don't recall discussing this meeting

1 with Betsey Wright on any occasion.

2 Q When did you first learn of an
3 investigation relating to Capital Management Services
4 or David Hale, criminal investigation?

5 A Let's see. It was while I was up here,
6 maybe when I was at agriculture. Whenever it came
7 out in the press, in the newspapers is when I heard
8 about it.

9 Q When did you first learn of an
10 investigation relating to Madison Guaranty or Jim
11 McDougal?

12 A I believe it was during the Presidential
13 campaign, I think. Whenever it came out in the
14 newspaper. I don't know specifically, but whenever
15 it came out in the newspaper is when I knew about
16 that.

17 Q Do you have any knowledge with regard to a
18 Clinton for governor fundraiser that was held in 1985
19 at Madison?

20 A No, I don't recall a fundraiser that was
21 held at Madison. When again?

22 Q 1985?

1 A I don't recall.

2 Q You don't recall attending such a
3 fundraiser?

4 A No, I don't.

5 Q You don't recall any discussions of the
6 setting up of such a fundraiser?

7 A No, I don't.

8 Q Have you had any contacts with regard to
9 either Madison, Whitewater or David Hale with Webster
10 Hubbell?

11 A Any conversations?

12 Q Yes.

13 A No.

14 Q Have you ever discussed Madison,
15 Whitewater, David Hale with William Kennedy?

16 A No.

17 Q Have you ever discussed Madison, Whitewater
18 or David Hale with Hillary Clinton?

19 A No.

20 Q Have you ever discussed Madison, Whitewater
21 or David Hale with Bill Clinton?

22 A No.

- 1 Q Have you ever discussed Madison, Whitewater
2 or David Hale with Jim Guy Tucker?
3 A No.
4 Q Have you ever discussed Madison, Whitewater
5 or David Hale with Bernard Nussbaum?
6 A No.
7 Q Do you recall any other discussion you
8 might have had about Madison, Whitewater or David
9 Hale with anybody at the White House?
10 MR. KRAVITZ: Did you say other
11 discussions?
12 MR. GIUFFRA: Any discussion.
13 THE WITNESS: Any discussions about
14 Madison, Whitewater --
15 BY MR. GIUFFRA:
16 Q Or David Hale.
17 MR. SIMPSON: With?
18 MR. GIUFFRA: People at the White House.
19 THE WITNESS: No, other than I was told
20 about this hearing, I was told that I had to come up
21 here. That was it.
22 BY MR. GIUFFRA:
-

- 1 Q Are you familiar with a real estate project
2 called Castle Grande?
3 A No, I'm not.
4 Q Are you familiar with a real estate project
5 called Castle Sewer & Water?
6 A I'm sorry, say the word again?
7 Q Castle Sewer & Water.
8 A No, I'm not.
9 Q You've testified you knew what Maple Creek
10 Farms --
11 MR. KRAVITZ: Can you hang on one second?
12 Excuse me.
13 MR. GIUFFRA: We'll take a break for a
14 second.
15 (Recess.)
16 BY MR. GIUFFRA:
17 Q Back on the record. Just one question
18 about going back to the meeting in the trailer. What
19 do you recall about the event that you had attended
20 prior to going to the trailer, anything more?
21 A The only thing I can recall is that it must
22 have been, in all likelihood it was some sort of

1 business or industrial development event. And the
2 reason I say that is because when I would go out with
3 him, it would be that kind of activity the
4 overwhelming majority of the time. A plant
5 announcement, a groundbreaking, a visit to a company
6 or something like that.

7 Q But you can't remember anything more about
8 the particular event?

9 A I really can't.

10 Q Can't remember where it was located?

11 A I don't remember specifically, but I
12 vaguely remember that, like, it was close, you know,
13 like close being like --

14 Q Within 15 or 20 miles of Little Rock?

15 A Well, let's say within an hour's driving
16 time, I'm just guessing, which means it could have
17 been like 50 or 60 miles. See, Pine Bluff is about
18 45 miles from Little Rock. It could have been in
19 Pine Bluff, it could have been anywhere in a radius
20 of an hour or so from Little Rock, and that's only
21 vague because I remember going there in the morning,
22 I don't know whether it was early morning or late

1 morning, going to whatever it was and then coming
2 back and still after stopping and still going back to
3 the office and working for -- it was still daylight
4 as I remember when we were back.

5 Q You don't remember anything more about the
6 particular event, ground breaking at X, Y or Z?

7 A I don't. I tried to think about that and I
8 don't remember.

9 Q With regard to this blue jeans plant, tell
10 me as much as you know about the blue jeans plant.

11 A About the blue jeans plant.

12 Q Yeah.

13 A I know that the blue jeans plant is a Levi
14 Strauss blue jeans plant.

15 Q And it's located near Maple Creek?

16 A It's located out that way. I don't know
17 how near it is to where the Maple Creek subdivision
18 is, but it's in that area, in that vicinity.

19 Q And it's your testimony that the discussion
20 between Clinton and McDougal had something to do with
21 economic development in that plant?

22 MR. SIMPSON: Object to the form and

1 characterization of the testimony. That's not what
2 he said.

3 BY MR. GIUFFRA:

4 Q All right. Do you recall anything more
5 about the discussions?

6 A No, I do not.

7 Q Just you have a vague recollection it had
8 to do with this blue jeans plant?

9 A Yeah. It had to do with blue jeans, not
10 the blue jean plant.

11 Q It didn't have to do with the plant, just
12 the blue jeans generally?

13 A Just like blue jeans generally.

14 Q The manufacture of blue jeans?

15 A I think the blue jeans may have been made
16 by Levis. The plant is Levi. For some reason, blue
17 jeans, maybe at that time blue jeans -- Levi blue
18 jeans were hot or something. I don't know. I don't
19 know.

20 Q So you don't even know whether it had to do
21 with that particular Levi Strauss plant in Arkansas?

22 A Oh, no, I don't remember that.

1 Q So it could have been the fact that
2 McDougal was wearing a certain type of blue jeans on
3 that particular day and that was what the
4 conversation was about?

5 A Could have been.

6 Q So really all you can testify to is the
7 fact that you recollect attending some sort of a
8 meeting with McDougal and Clinton at this trailer?

9 MR. SIMPSON: Object to the form of the
10 question.

11 THE WITNESS: Well, I'm not sure. What's
12 the question?

13 BY MR. GIUFFRA:

14 Q You will agree you attended a meeting with
15 Clinton, McDougal at this trailer sometime, you know,
16 more likely closer to '85, '86?

17 MR. SIMPSON: Object to the form. He's
18 told you what he remembers about the meeting.

19 BY MR. GIUFFRA:

20 Q Is it fair to say that's what your best
21 recollection is?

22 A Let me say what my best recollection is, is

1 that sometime between 1985 and 1989, it may have been
2 closer to '85 than '89, I was at a trailer where Jim
3 McDougal, Bill Clinton and I were talking for a short
4 period of time. And I remember the discussion having
5 to do with blue jeans but I don't remember how blue
6 jeans came up. I remember that there were other
7 pleasantries like hello, how are you and that kind of
8 thing that you would normally do.

9 I remember the meeting being shorter rather
10 than longer, I think earlier you said something about
11 was it an hour, was it half an hour. I'm thinking
12 like it was maybe much shorter than that, like close
13 to five or 10 minutes, and I remember that we stood
14 up. I don't remember sitting down.

15 I remember that I saw a woman in the
16 trailer who was not in the area where we were, but
17 you could look back down through the trailer and
18 there was a woman sitting at a desk who looked like
19 she was, I don't know whether she was writing or
20 typing, I can't remember. I don't remember who this
21 woman was, or I didn't recognize her.

22 There was a trooper who may or may not have

1 gotten out of the car and come in to get us to go. I
2 think I vaguely remember him getting out of the car
3 because the troopers would always be pushing him to
4 go because he would always be late and stop places
5 that were not on his itinerary. That's what I
6 remember.

7 Q During the period when you were senior
8 executive assistant to the governor for economic
9 development, did you ever have any contact with the
10 Rose Law Firm?

11 A Not that I remember.

12 Q Did you have any contact with Web Hubbell?
13 MR. SIMPSON: During that period?

14 BY MR. GIUFFRA:

15 Q During the period '82 to '89?

16 A I assume you mean while I was on the
17 governor's staff. Not that I remember, other than,
18 again, large events where there were hundreds of
19 people, he could have been at some sort of chamber
20 dinner, luncheon or something like that and I was at
21 the same place, but I don't remember specifically.

22 Q Do you recall any contacts with Mr. Vince

1 Foster?

2 MR. KRAVITZ: During that time period?

3 BY MR. GIUFFRA:

4 Q During that period '82 to '89.

5 A No, I do not.

6 Q Do you recall any contacts with Beverly
7 Bassett-Schaffer during the period '82 to '89?

8 A Beverly Bassett-Schaffer, who was the
9 securities commissioner?

10 Q Correct.

11 A From '82 to '89. I'm sure that I probably
12 did because I know that at one time -- at some time
13 when I was in the governor -- although I'm not sure
14 of that. I may have left. She was a department
15 head, so I may have attended department head meetings
16 or other functions where us state government people
17 were called together, but I don't remember
18 specifically. But I would be surprised if we were
19 not at some event or gathering together.

20 Q Do you recall having any discussions with
21 anyone with regard to the construction of a brewery
22 at something called Castle Grande Estates?

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1 A No, I do not. Now, you mentioned earlier,
2 I wanted to tell you, when you mentioned Castle
3 Grande earlier, I remember that I did read
4 something --

5 First of all, the answer to your question
6 is no with regard to Castle Grande Brewery and
7 discussion. The answer is no.

8 I remember reading something in the
9 newspaper now about Castle Grande, but I have no idea
10 what that is. I do remember reading about that in
11 the newspaper several years ago.

12 Q And it's your testimony you don't recall
13 any other contacts with Jim McDougal during the
14 period '82 to '89 of any substance?

15 A No, other than some large meeting where
16 there were hundreds and hundreds of people where he
17 may have been there, but I'm not even sure about
18 that.

19 Q Don't recall taking any action at the
20 request of Mr. McDougal?

21 A No, I do not.

22 Q Do you recall any discussion in the

1 governor's office of Mr. McDougal?

2 A Do I recall any --

3 Q Any discussion of Mr. McDougal with anyone
4 in the governor's office.

5 A No, I do not recall any discussion with
6 anyone in the governor's office about Mr. McDougal.

7 Q Never discussed Mr. McDougal with the
8 governor?

9 A Never discussed Mr. McDougal with the
10 governor, other than when we were at the trailer.

11 Q Did he say anything about McDougal when you
12 went to the trailer?

13 A I'm sorry?

14 Q Did he say anything to you about
15 Mr. McDougal when you went to the trailer?

16 A I'm not sure when you're referring to.

17 Q When you went to the trailer sometime
18 between '85 and '89, closer to '85, did Clinton say
19 anything about McDougal, like we're going to go see
20 Jim McDougal, who is X?

21 A Oh, I don't recall. No, I don't recall him
22 saying anything about that. Other than looking --

1 other than looking for this trailer. I can't
2 remember the exact discussion but I do remember
3 looking for this trailer where McDougal's office
4 was. I do remember that, but I don't recall the
5 exact discussion.

6 Q Do you recall any discussion of David Hale
7 during the period when you were in the governor's
8 office?

9 A Do I recall any discussions about David
10 Hale --

11 Q Or involving David Hale.

12 A With me?

13 Q Or anybody else in the office.

14 A No, no, I do not.

15 Q Did you ever take any action at the request
16 of Mr. Hale?

17 A No.

18 Q Did Mr. Hale ever ask you to do anything?

19 A I don't recall anything he asked me to do.
20 When you say "do," what do you mean by "do"?

21 Q Take action.

22 A No, I don't recall any action.

1 Q Do you recall any discussions with Mr. Hale
2 you might have had during the period when you worked
3 in the governor's office?

4 A Well, I am sure that again, I'm going back
5 to a lot of activities, it would have been a casual
6 conversation at an event with hundreds of people
7 where he may have said hello and I said hello, but I
8 do not recall any action Mr. Hale asked me to take
9 regarding any issue.

10 Q Do you know a man named R.D. Randolph?

11 A Yes, I do.

12 Q Who is R.D. Randolph?

13 A R.D. Randolph is an employee of the
14 Arkansas Development Finance Authority, and he works
15 in the agricultural division of ADFA.

16 Q And so he used to work for you?

17 A He worked for the agency that I ran. He
18 did not work directly for me. He worked for -- I
19 forget his name, but whoever the vice president for
20 agriculture is, or was.

21 Q Do you know a man named Dan Lassiter?

22 A Yes, I do.

1 Q Tell us how you know Dan Lassiter.

2 A I know Dan Lassiter because he was an
3 investment banker in Little Rock, Arkansas and I know
4 probably most of the investment bankers in Arkansas,
5 particularly central Arkansas.

6 Q Did you ever attend any meetings between
7 Mr. Lassiter and Governor Clinton?

8 A No, I didn't attend any meetings between
9 Governor Clinton and Dan Lassiter.

10 Q Do you have any understanding as to whether
11 Mr. Lassiter knows Governor Clinton?

12 A I do not know. I assume they do based upon
13 press accounts.

14 Q Did you ever discuss Mr. Lassiter with
15 Governor Clinton?

16 A No.

17 Q Did you ever discuss Mr. Lassiter with
18 Bruce Lindsey?

19 A No.

20 Q Do you know a man named Jack Palladino?

21 A No.

22 MR. GIUFFRA: I don't have any other

1 questions.

2 MR. KRAVITZ: I have just a few questions.

3 EXAMINATION

4 BY MR. KRAVITZ:

5 Q You were asked about the point in time as
6 you and Governor Clinton and the state trooper were
7 in the car and looking for Mr. McDougal's trailer
8 near Maple Creek Farms, and I believe your testimony
9 was that all three of you were looking for the
10 trailer; is that correct?

11 A Yes, that's what I recollect.

12 Q Was it your impression that Governor
13 Clinton had never been to that trailer before that
14 time?

15 A Because we were -- "we" being the trooper
16 and Governor Clinton and I were looking for it, I
17 would assume that he had never been there.

18 Q Did Governor Clinton appear to know exactly
19 where the trailer was before you-all located it?

20 A No.

21 MR. KRAVITZ: That's all I have. Thanks.

22 EXAMINATION

1 BY MR. GIUFFRA:

2 Q One question. Was this the kind of trailer
3 that could be moved?

4 A I think it was. I think it was like a
5 house trailer, like you would -- yes, it was -- I
6 think it was the kind of trailer that could be moved.

7 Q So it had wheels on it and it could be
8 driven? Was it like a Winnebago?

9 A No. As I remember this trailer -- I know
10 what you mean by Winnebago. You get in this thing
11 and you just drive it, it's self-contained; right?
12 Is that what you mean?

13 Q Yes.

14 A It was not that kind of trailer.

15 Q But it was the kind of trailer that you
16 could tow around if you had a car to pull it?

17 A I think it was a trailer, as I remember it,
18 that you could pull around with a truck, like a
19 truck. I don't think it was like a car. It wasn't
20 like one of these little silver things, Airstream, it
21 wasn't like that, it was like -- there are a lot of
22 trailers in Arkansas that people live in.

1 MR. KRAVITZ: Bob Giuffra is exposing his
2 city slicker past here.

3 BY MR. GIUFFRA:

4 Q What color was the trailer?

5 A I don't know. But it was a trailer like
6 you would live in, like a family would live in. You
7 know, I don't know how long.

8 Q When Mr. Kravitz just asked you a couple
9 questions about whether you had any understanding as
10 to whether the governor had been there --

11 MR. KRAVITZ: Objection, that is not what I
12 asked him.

13 MR. GIUFFRA: I believe you asked him
14 whether he had any impression as to whether the
15 governor had been to the trailer before.

16 BY MR. GIUFFRA:

17 Q Do you recall that question?

18 A I recall the question.

19 Q You don't really know one way or the other
20 whether the governor had been there before?

21 A I think my comment was that because I
22 remember we were all looking for it, that we were

1 looking for it, the trailer, that my impression was,
2 I don't know for a fact, was that he had not, was my
3 impression.

4 Q Was the trailer located on a major road?

5 A When you say "a major road," do you mean
6 like state highway or interstate?

7 Q Yes.

8 A It was not on an interstate highway. It
9 was not on a state highway so it was on something
10 less than that, whatever it was.

11 MR. GIUFFRA: No further questions.

12 MR. KRAVITZ: Thanks.

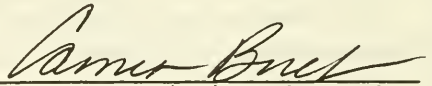
13 (Whereupon, at 4:38 p.m., the deposition
14 was concluded.)
15
16

17 BOBBY J. NASH
18
19
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21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF WILLIAM CAIN LYON
IN RE: S. RES. 120**

THURSDAY, DECEMBER 14, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of WILLIAM CAIN LYON, called
for examination pursuant to notice of deposition, at 11:20 a.m. in
Room 640-A of the Hart Senate Office Building, before GARY S.
HOWARD, a Notary Public within and for the District of Columbia,
when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
JAMES F. REDFERN
Majority Special Investigator
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

APPEARANCES

THOMAS L. MAYS, Esq.
P.O. Box 710
Fordyce, Arkansas 71742
On behalf of the Deponent.

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P R O C E E D I N G S

MR. GICALE: At this point, we will go on the record.

Mr. Mays, you are present with your client, Mr. Lyon.

MR. MAYS: That's correct.

MR. GICALE: And previously, off the record, I asked whether your client would consent to being sworn in over the phone by the stenographer. And it's my understanding that your client does consent to being sworn in by the stenographer over the phone.

Is that correct?

MR. MAYS: That's correct.

MR. GICALE: Mr. Lyon, is that correct?

THE WITNESS: Yes, sir.

MR. GICALE: Can we have the stenographer please swear in Mr. Lyon, the Witness? Whereupon,

WILLIAM CAIN LYON

was called as a witness and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Mr. Lyon, could you please state your name for the record?

A My name is William Cain Lyon.

Q Did you say Cain is the middle name?

A Yes, sir, C-a-i-n.

Q What is your present business address?

A No. 1 Lyon Lane, Fordyce -- F-o-r-d-y-c-e -- Arkansas 71742.

Q And what is the name of your business, the business you work at?

A The business that I work at is Lyon Folder Company. I'm also in some other things. I'm a redneck businessman.

Q And what is your business phone number?

A 352-7161.

Q That's area code 501?

A Yes, sir.

Q Mr. Lyon, you are present in your

6

attorney's office today. That's Mr. Mays.

MR. GICALE: Mr. Mays, could you give us your full name and your address?

MR. MAYS: My full name is Thomas L. Mays, M-a-y-s. My business mailing address is P.O. Box 710, Fordyce 71742.

MR. GICALE: And your business phone number?

MR. MAYS: 501-352-5165.

MR. PORTNOY: Is that 5161, sir?

MR. GICALE: Could you repeat your phone number again?

MR. MAYS: 501-352-5165.

MR. GICALE: Thank you.

BY MR. GICALE:

Q Now, Mr. Lyon, what business are you presently in? The company that you just named, what is the nature of that business?

A The nature of the business is manufacturer's custom file folders. I am the manager. I work for a large concern. Now at one time I owned that business and I sold it and now I manage it for

1 them.

2 Q How long have you been the manager of that
3 business?

4 A I've been the manager of the business
5 approximately eight years. I started the business
6 probably 23 to 24 years ago.

7 Q Now, are you involved in any other
8 businesses at this point in time?

9 A At this one time, I'm involved in other
10 business. It's Phillips-Lyon Plywood Sales.

11 Q And what type of business is that?

12 A We sell reject plywood and lumber. A very
13 small operation.

14 Q And what is your -- are you the owner of
15 that business?

16 A I own 50 percent of the business. I
17 actually do not run it.

18 Basically, what it boils down to, I own the
19 building and a friend and partner runs the business.
20 We've been in that company -- well, almost two years.

21 Q Now prior to becoming manager of the Lyon
22 business that you first described, you were the

1 owner.

2 Were you involved in any other businesses
3 prior to these two?

4 A Yes, sir.

5 Q What other businesses?

6 A Sir, there would be too many to name, all
7 small businesses. I was mostly in concrete
8 construction and gravel-hauling, that type of thing.
9 Later on, in banking.

10 Q What banking business were you involved in?

11 A I was involved in what is now the Pine
12 State Bank, which is the smallest bank in Arkansas,
13 originally the Bank of New Edinburg.

14 MR. GICALE: Off the record for a second.
15 (Discussion off the record.)

16 MR. GICALE: We're back on the record
17 again.

18 BY MR. GICALE:

19 Q The bank that you were involved with, could
20 you spell the name of that bank?

21 A The name of the bank is Pine, P-i-n-e,
22 State Bank.

1 MR. PORTNOY: And it was originally called
2 something else, sir?

3 THE WITNESS: Yes, sir. The Bank of New,
4 N-e-w, Edinburg, E-d-i-n-b-u-r-g.

5 BY MR. GICALE:

6 Q And what was the nature of your involvement
7 in that bank?

8 A I owned that bank.

9 Q When did you own that bank?

10 A I believe from 1978 until 1986. I'm not
11 sure of the dates, sir.

12 Q Now when you say you owned that bank, you
13 owned 100 percent of the stock?

14 A No, sir. I owned 84 percent of the stock.
15 And it varied through the years. I would buy more and
16 so on.

17 Q And where was that bank located, again?

18 A It was located at New Edinburg, Arkansas,
19 is where it was chartered, a little bitty town about
20 15 miles from Fordyce, Arkansas.

21 Q Who owned the balance of the stock in that
22 bank, the other 16 percent?

10

1 A Dr. Gene Jines.

2 MR. GICALE: Off the record.

3 (Discussion off the record.)

4 MR. GICALE: Back on the record.

5 BY MR. GICALE:

6 Q Could you spell that name, please?

7 A J-i-n-e-s.

8 Q The stenographer would like the spelling of
9 Gene as well.

10 Is that --

11 A Yes, sir.

12 MR. PORTNOY: The male spelling or the
13 female?

14 BY MR. GICALE:

15 Q Could you spell that for us?

16 A It was spelled G-e-n-e. He was a male.

17 Q Okay. Were there any other stockholders at
18 that bank?

19 A Yes, sir. Jimmy Clark -- C-l-a-r-k. And
20 then there were various small stockholders that owned
21 a share and two.

22 It's been a long time ago. I really don't

1 know who all owned the remainder of it.

2 Q Did James McDougal have an interest in that
3 bank at all?

4 A No, sir, he did not.

5 Q Now, were you involved or have an ownership
6 interest in any other banks?

7 A Did I have an ownership interest in any
8 other bank?

9 Q Yes.

10 A Is that the question?

11 Q Yes, that's the question -- did you have an
12 ownership interest in any other bank?

13 A No, sir.

14 Q Other than the concrete-hauling business
15 and this bank, were there any other significant
16 businesses that you were involved in from 1983 to the
17 present?

18 MR. MAYS: Let's go off the record a
19 minute.

20 MR. GICALE: Let's go off the record.
21 (Discussion off the record.)

22 BY MR. GICALE:

1 Q Mr. Lyon, in addition to the concrete
2 business and the Pine State Bank, were you also
3 involved in a brewery business?

4 A Yes, sir. I owned a micro-brewery in Little
5 Rock, Arkansas.

6 Q And when did you own that business? What
7 period of time?

8 A Sir, I'm not sure. It closed down, I
9 believe, in 1986. Probably from '82 or '83, up
10 around '85 to '86.

11 It operated around three years, I believe.

12 Q Did you have any partners in that business?

13 A At one time, I did. I originally started
14 with a partner -- Scott Riley. And he got out of it
15 and we changed the name to the Arkansas Brewery
16 Company.

17 Very small. I'm talking about three or four
18 people employed by the brewery.

19 Q Mr. Lyon, I would like to go over the
20 outline of the matters we are going to inquire into
21 today.

22 This deposition is being conducted pursuant

1 to Senate Resolution 120. The resolution establishes
2 a special committee administered by the Banking
3 Committee to conduct an investigation involving
4 Whitewater Development Corporation, Madison Guaranty
5 Savings and Loan Association, Capital Management
6 Services, Incorporated, the Arkansas Development
7 Finance Authority, and other related matters.

8 Section 1(B)(3)(a) and (b) of Senate
9 Resolution 120 authorizes an investigation and public
10 hearings into, A, the operation, solvency and
11 regulation of Madison Guaranty Savings and Loan
12 Association and any subsidiary, affiliate, or other
13 entity owned or controlled by Madison Guaranty
14 Savings and Loan Association; B, the activities,
15 investments, and tax liability of Whitewater
16 Development Corporation, and as related to Whitewater
17 Development Corporation, of its officers, directors
18 and shareholders.

19 You were requested to testify earlier this
20 month. This deposition is being taken in advance of a
21 public hearing which may occur in early 1996.

22 We will be asking you a series of

1 questions. You've agreed to testify under oath. If
2 you do not understand a question, let us know and we
3 will rephrase the question.

4 The stenographer is preparing a record of
5 the questions and answers. The deposition will be
6 treated as Committee Confidential until the
7 commencement of the hearings.

8 Prior to the hearings, you will receive a
9 letter from the Committee telling you that you may
10 come to the Senate to review the transcript of your
11 deposition and make note of any corrections for
12 transcription on an errata sheet.

13 I note for the record that you are in
14 Arkansas and, as a result, the Committee can make
15 some arrangements to have you review that transcript
16 in Arkansas, and we can talk about that after the
17 deposition, or at some subsequent point.

18 A I understand, sir, and I appreciate not
19 having to go to Washington. It would have been around
20 a 28-hour day for me, had it revolved around what you
21 all were talking about doing.

22 Q If you are called ultimately to testify at

1 a public hearing, you will be permitted to have a
2 copy of your deposition transcript four days in
3 advance of your testimony.

4 You may be represented by counsel, and I
5 note for the record that you have Mr. Mays there as
6 your counsel.

7 Objections to the form of questions will be
8 noted for the record. Counsel may object on the
9 grounds of privilege or relevance. The Committee
10 Chairman may rule on objections where the Witness
11 refuses to answer a question.

12 Do you have any questions at this point
13 about the procedure?

14 A No, sir, I do not. You can ask me whatever
15 you wish. I will tell you the truth.

16 Q Okay. Now going back to 1983, with respect
17 to the brewery, do you have any documents or records
18 with respect to that brewery currently in your
19 possession?

20 A I hope I don't.

21 Q Now, did you speak to anyone other than
22 your counsel with respect to the substance of your

1 testimony here today?

2 A I do not know what substance of testimony
3 means, sir.

4 Q Well, did you talk to anybody other than
5 your attorney about what you would be testifying to,
6 today?

7 A I had no idea what I would be testifying
8 to, really. The way it was worded to me, after Mr.
9 Mays asked, was it was about Castle Grande, the
10 brewery, Madison Guaranty, and all related matters.

11 That includes everything in the world.

12 Q Okay. So you understand that. And you have
13 not talked to anyone else other than your attorney
14 about the substance --

15 A My wife.

16 Q Pardon me?

17 A I've talked to my wife. I told her.

18 Q Okay. Anybody else other than those two
19 people?

20 A No, sir.

21 Q When did you first hear of a proposal to
22 develop a brewery on the Castle Grande property?

1 A Sir, I'm not sure of the date. And I'm not
2 very good with dates. It was somewhere between the
3 period that -- I would say between '83 and '86.

4 Q Who approached you about a proposal to
5 develop a brewery on the Castle Grande property?

6 A James McDougal.

7 Q Now at the time he approached you, you
8 already owned this micro-brewery.

9 Correct?

10 A That's correct.

11 Q In another part of Little Rock.

12 A Yes, sir. Now, please understand, and if
13 you gentlemen will bear with me, I have never been
14 able to explain the location of where we're talking
15 about.

16 If you will draw a straight line and put a
17 circle at the top of that line, that's Little Rock.
18 If you put one in the middle, that's Castle Grande.
19 If you put one at the bottom, that's Maple Creek.

20 Castle Grande was not in Little Rock.

21 Q Okay. So you had a brewery in Little Rock
22 and Mr. McDougal approached you about putting a

1 brewery on the Castle Grande property.

2 A Yes, sir.

3 Q How long had you been in business with the
4 micro-brewery in Little Rock at that point?

5 A Probably a little over two years.

6 Q And what did McDougal say to you about this
7 proposal when he first came to you with the idea?

8 MR. MAYS: Let's stop. Let's stop right
9 here. Did you not have the brewery first?

10 MR. GICALE: Let's go off the record for a
11 moment.

12 (Discussion off the record.)

13 MR. GICALE: Let's get back on the record.

14 BY MR. GICALE:

15 Q Mr. Lyon, could you please describe your
16 first contact with Mr. McDougal with respect to your
17 brewery?

18 A The first contact was that I borrowed the
19 money in order to put the brewery in from Madison
20 Guaranty.

21 Q And this is the brewery in Little Rock, the
22 micro-brewery.

1 Correct?

2 A Yes, sir.

3 Q You borrowed that from Madison Guaranty.

4 A Yes, sir.

5 Q How much money did you borrow?

6 A I believe I borrowed \$100,000.

7 Q Who arranged that loan for you at Madison
8 Guaranty?

9 A I don't know who arranged it. He arranged
10 it, I guess. I forget who the loan officer was that
11 handled it.

12 Q Was it Mr. McDougal who arranged the loan?

13 A Well, I talked to Mr. McDougal about it,
14 yes. And then, when I borrowed the money, it was
15 through a loan officer of the bank.

16 Q I take it, then, that you knew Mr. McDougal
17 prior to talking to him about this loan.

18 A Yes, sir. Mr. McDougal and I were in
19 college together. He lived in a fraternity house next
20 to where I lived and I sold sandwiches at night in
21 order to get through school.

22 So, basically, I was in every room on that

1 campus every night, including his.

2 Q Did you continue to maintain a social or
3 business relationship with Mr. McDougal after
4 college?

5 A No, sir. In fact, after college, I probably
6 didn't see him for the next 20 years or so. He came
7 through one time with Senator Fulbright campaigning.

8 But other than that, I didn't see him
9 socially or any other way. He was in Washington, I
10 think.

11 Q How was it you came to approach him about
12 borrowing the money for the micro-brewery?

13 A He bought a bank in Kingston, Arkansas --
14 well, let's go back a little bit.

15 He called me when he was President
16 Clinton's -- on his staff, his top aide, and asked if
17 I would be on a state bank board. And I told him that
18 I would.

19 Later on, he called and told me that he had
20 bought a bank in Kingston, Arkansas and stop in and
21 see him some time. And going to a Razorback ballgame
22 in Fayetteville, my wife and I did stop and see the

1 bank at that time.

2 So --

3 Q So when was it that he called you to ask
4 you to be on the state bank board?

5 Do you recall the date? The year?

6 A I think, sir, it was sometime -- it was
7 Governor Clinton's first term. I believe it was
8 sometime in 1982.

9 Once again, I'm not very good on dates and
10 it was a long time ago.

11 Q So it was subsequent to that that he told
12 you he bought a bank in Kingston -- or the Kingston
13 bank.

14 A Yes, sir.

15 Q And then, you subsequently met him after he
16 bought that bank.

17 A Yes, sir.

18 Q And then, what subsequent contact did you
19 have with him?

20 A When he started Maple Creek, which was a
21 lot closer, he called and asked me to stop in and see
22 it. And so I did.

1 Q Now Maple Creek was --

2 A Was before Madison, in Little Rock.

3 Q Maple Creek was a development.

4 A Yes, sir.

5 Q A housing development?

6 A A housing development.

7 Q He asked you to stop in to see it, for what
8 purpose?

9 A Mainly because he was proud of it.

10 Q And then what contact did you have with him
11 after seeing that development?

12 A That development -- I had some contact with
13 him.

14 Q Did you become involved in that
15 development?

16 A No, not really. I wasn't involved in that
17 development. But when I was up there -- you know, I'm
18 in timber country. And I looked over and he was
19 burning up timber, piling. They stored it with a
20 bulldozer, and I asked him why? He told me that he
21 didn't know anything about it.

22 I told him, well, you really ought to sell

1 it. And he said, well, why don't you sell it? And I
2 said, well, I'll be glad to and let you have half of
3 it.

4 He told me at that time he really didn't
5 want half of it. He just wanted it out of the way.
6 And so, the contact with him I had a little bit at
7 Maple Creek was we attempted to remove some timber
8 from Maple Creek.

9 It was a very bad deal for us because he
10 had other loggers in there and we would go up and
11 mark the trees to be cut. By the time we would get
12 there, they were already cut.

13 So I took a hit on that. Not a big one, but
14 I took one.

15 Q And you're talking a financial hit.

16 A Yes, sir.

17 Q All right. And then, did you have any
18 subsequent business or social dealings with Mr.
19 McDougal?

20 A I had -- my social dealings with Mr.
21 McDougal were basically, I'd see him in the bank
22 every once in a while. We ate lunch, once in a

1 cafeteria, once in a road ditch.

2 We had a sandwich and Coke together.

3 Q Now which bank are you referring to at this
4 point?

5 A By this time, he built Madison Guaranty.

6 Q So you had subsequent meetings with him or
7 you saw him at Madison Guaranty.

8 A Yes, sir.

9 Q All right. Now those were business or
10 social meetings?

11 A They were business. I was in the bank
12 conducting my business for the brewery.

13 Q And was it at this point in time that you
14 obtained, sought his assistance in obtaining
15 financing for the brewery?

16 A Well, I had already talked to him about the
17 brewery and I had the loan for the brewery, I assume,
18 in the time period that you're talking about.

19 The brewery was there.

20 When I was seeing McDougal off and on was
21 only when I was in the bank because of the brewery,
22 in the business of the brewery.

1 Q Okay. So that you were seeing him
2 subsequent to obtaining financing from the bank for
3 the brewery.

4 Correct?

5 A I don't understand the word subsequent. I'm
6 sorry.

7 Q You were seeing him after you obtained the
8 loan for the brewery.

9 A Yes, sir, that's correct.

10 Q And again, the loan was for \$100,000.

11 A The original loan was for \$100,000, yes,
12 sir.

13 Q Did that change with time? Did that
14 increase?

15 A It increased a great deal with time.

16 Q How did it change?

17 A The change is we added to the brewery.

18 Really, we're not -- I say we. I really did not make
19 any money out of the brewery.

20 It changed to where it was over three times
21 that much.

22 Q So over \$300,000 was borrowed from Madison

1 Guaranty for the brewery?

2 A Yes, sir.

3 Q Do you recall the total amount?

4 A I'm not exactly sure. I've tried to be
5 because I knew this was coming.

6 I think that it was somewhere around
7 \$368,000.

8 Q And it was Mr. McDougal that made
9 arrangements for this financing, at least initially?

10 A Initially, yes, sir. Later on, I talked to
11 Don Denton, who was the loan officer: I remember him.
12 He had several loan officers in the bank.

13 Q Did you deal with any other loan officers
14 that you recall?

15 A I'm sure that I was, but I don't remember
16 who.

17 Q Were these secured loans?

18 A They were paid.

19 Q But was there any security pledged for the
20 loans, real estate or something else?

21 A Yes, sir.

22 Q What was the security for the loans?

1 A All loans were paid off.

2 Q But when you initially obtained the loans,
3 did you have to put up some security?

4 For instance, a piece of real estate or the
5 brewery itself?

6 A I told you that the loans were secured.

7 Q What were they secured with?

8 A They were secured with property.

9 Q Real property?

10 A Yes, sir.

11 Q And anything else?

12 A I don't really remember what all they were
13 secured with, sir, but they were secured.

14 Q Okay. But was the real property the
15 property where the brewery was located or was it
16 secured by some other real estate?

17 A It was secured by some other real estate
18 that I loaned. The equipment on the brewery was also
19 involved. The bank stock -- my bank stock was
20 involved. Life insurance policy was involved, with
21 cash value.

22 The loans were secured.

1 Q Now subsequent to obtaining the loans for
2 the brewery for Madison Guaranty, did you have any
3 other business dealings with Mr. McDougal, subsequent
4 to or during the time that you had the various loans
5 at Madison Guaranty?

6 A Yes, sir. I told you that I attempted to
7 log Maple Creek before Madison Guaranty was actually
8 in Little Rock and built.

9 Q Okay. But other than Maple Creek, did you
10 have any other business dealings with Mr. McDougal
11 during this time period?

12 A No, sir.

13 Q Now while you owned this brewery, did you
14 have some conversations with Mr. McDougal about a
15 brew pub?

16 A Yes, sir. Apparently, I did. I do not
17 remember it, but feel sure that I did have a
18 conversation with him about it.

19 Q How did that conversation come about? And
20 what did you say to him?

21 A Okay. Let me just explain. A brew pub is
22 simply that you're able in a restaurant, if you're

1 brewing your own beer, that you can also have a
2 restaurant.

3 At that time, it was illegal in the State
4 of Arkansas. We had a system where you had -- it was
5 set up for large breweries. And I fought the war and
6 lost.

7 Now, having a brew pub in Arkansas is
8 legal. But I thought that the brewery might make it,
9 might survive, if you we could get a law to have a
10 brew pub.

11 I had a little area upstairs in the brewery
12 that we could put in a sandwich shop and sell
13 sandwiches and beer and maybe generate some cashflow.

14 So I talked to Senator Jim Scott, who is a
15 local senator in Warren, Arkansas, about 25 miles
16 from here. I feel sure, even though I do not
17 remember, that I did talk to McDougal because it
18 makes sense for me to because he had clout with
19 Governor Clinton and state government.

20 Q He had, what?

21 A Clout.

22 Q Oh, clout.

30

1 A Yes, sir.

2 Q He told you he had clout with the governor.
3 Is that correct?

4 A I knew he had clout with the governor.

5 Q All right. So you talked to McDougal. You
6 believe you talked to McDougal and you talked to
7 senator --

8 A Scott.

9 Q Scott. About --

10 A I talked to the ABC attorney. I don't
11 remember his name -- in trying to get them to pass a
12 law saying it would be legal in the State of
13 Arkansas.

14 It was in many states at that time.

15 Q Now just to clarify this, what would be
16 legal? What did you want to be legal?

17 A A brew pub.

18 Q A brew pub on the premises of a brewery.

19 A Yes, sir.

20 Q Now what did Scott and/or McDougal do for
21 you with respect to that law?

22 A Senator Scott put legislation through the

- 1 system to try to get a brew pub in.
 2 Q So he submitted a bill to the assembly?
 3 A However they do it, yes, sir.
 4 Q Did he show you a copy of the bill before
 5 he submitted it?
 6 A No, sir.
 7 Q Did you ever see a copy of the bill?
 8 A No, sir.
 9 Q Do you recall whether or not it called for
 10 allowing beer manufacturers to sell beer at retail in
 11 restaurants located on the premises of a
 12 manufacturing facility for consumption on the
 13 premises?
 14 A No, but that sounds like the language they
 15 would probably use in describing the brew pub.
 16 Q Okay. Do you know whether or not it went
 17 further and allowed for sale of beer at retail in
 18 restaurants for consumption off the premises and at
 19 wholesale to licensed retailers of alcoholic
 20 beverages?
 21 Do you recall that?
 22 A No, sir. I don't recall the language. I

- 1 never did really see the language. It didn't get very
 2 far.
 3 Q Okay. Well, what happened with that bill?
 4 A I do not know, except that it did not pass.
 5 I was told by the ABC -- that's the Arkansas Beverage
 6 Control Board -- that I could have a tasting room.
 7 Tasting room means that they can come into
 8 the brewery and taste the beer. I still cannot sell
 9 the beer at the brewery, nor could I sell food with
 10 the beer.
 11 So, really, I ended up with nothing.
 12 Q Now, did you ask McDougal to try to do
 13 something for you with respect to this bill?
 14 A Sir, I do not remember asking McDougal to
 15 do it.
 16 On the other hand, I feel sure that I did
 17 because, knowing me and knowing him, I would have,
 18 because I was trying to get the bill through.
 19 Q Did McDougal tell you that he would take
 20 steps or had taken steps with the governor or the
 21 governor's office to remove any legislative or
 22 regulatory restrictions on your proposal?

1 A No, sir.

2 Q Did he tell you that he had written a
3 letter in December of 1984 to Betsy Wright,
4 indicating to Betsy Wright that Governor Clinton had
5 made a commitment concerning this bill, which he
6 needed to discuss with her?

7 A I do not know Betsy Wright, no, sir.

8 Q Did McDougal ever tell you that Clinton had
9 made a commitment to him concerning the bill that you
10 talked to Senator Scott about?

11 A No, sir.

12 Q Did McDougal tell you that he had talked to
13 the governor or the governor's office on behalf of
14 that bill?

15 A Not to my knowledge, no, sir.

16 Q Did McDougal tell you that anyone else had
17 gone to see the governor or someone from the
18 governor's office in support of this bill?

19 A No, sir. The man that I was really working
20 through was my local state senator, who is a friend
21 of mine.

22 Q And that would be Senator Scott.

34

1 A Yes, sir.

2 Q Were you told by Senator Scott or Mr.
3 McDougal that the bill was withdrawn from the
4 assembly?

5 A I was told by Senator Scott that the bill
6 was withdrawn.

7 Q Did he tell you why it was withdrawn?

8 A Basically, he said that he didn't think
9 that he could get it through at that time. We would
10 try later on.

11 What I need to do is go talk to the ABC and
12 see if maybe they couldn't give us a little support
13 on it.

14 Q Well, did you do that?

15 A Yes, sir, I did that.

16 Q Who did you talk to at the ABC?

17 A The attorney there. He's been there for
18 years, and I forget his name.

19 Q Is he still there?

20 A I'm sure he is. If you want to know how a
21 cow eats a cabbage, you ask him.

22 Q So after Scott told you he didn't think he

1 could get it through, you went to the attorney at ABC
2 to see what he could do in terms of regulation.

3 Correct?

4 A I had been working with the ABC also, along
5 with Senator Scott, sir, and anybody else that I
6 thought might influence or help me get that bill
7 through because I was floundering.

8 I thought at that time if I didn't get that
9 bill, that I was going to hit financial disaster. And
10 it did prove correct.

11 I hit it.

12 Q Now I'm going to represent to you that a
13 bill submitted by Senator James Scott which provided
14 that beer manufacturers licensed by the Arkansas
15 Alcoholic Beverage Control Board may sell beer at
16 retail in restaurants located on the premises of such
17 manufacturing facilities for consumption on the
18 premises, amongst other things, was withdrawn on
19 February 18th, 1985.

20 And I'm going to further represent to you
21 that two days later, on February 20th, 1985, the
22 Arkansas Alcoholic Beverage Control Board promulgated

1 a regulation providing in part that any winery,
2 brewery, distillery or rectifying plant operating
3 within the State of Arkansas and licensed by the
4 Alcoholic Beverage Control Division is authorized to
5 maintain a tasting room on their licensed premises,
6 where samples of their products can be given to
7 persons touring such facilities.

8 Is that the regulation that you earlier
9 were referring to?

10 A That is exactly what I told you happened.

11 Q Okay. And do you recall it happening within
12 two days of --

13 A Not within two days. They gave us a tasting
14 room, which, financially, didn't help anybody at all.

15 Q Although it was more than you had before
16 you went into this process.

17 Correct?

18 A It was less than I had, sir. It just
19 allowed me to give the beer away.

20 Q What was the process that you went through,
21 other than talking to the ABC lawyer?

22 Were there hearings or did you have to go

1 before a board for the regulation?

2 A Sir, in all honesty, that man was the board.

3 Q And was this what he told you he could
4 give you at that point in time?

5 A Yes, sir. And I thanked him.

6 Q Now did he tell you whether or not McDougal
7 had been in touch with him with respect to this
8 regulation, to promulgating this regulation?

9 A No.

10 Q Did he tell you whether or not he had had
11 any contact with the governor or the governor's
12 office with respect to the promulgation of this
13 regulation?

14 A No, sir.

15 Q What's your answer?

16 A No, sir.

17 Q Did he tell you who he had discussed the
18 regulation with?

19 A No, sir.

20 Q Now at what point in time did Mr. McDougal
21 talk to you about constructing a brewery and possibly
22 a tasting room at Castle Grande?

1 A I would imagine it was about that period of
2 time, somewhere in 1985 or late 1984. He really -- at
3 Castle Grade, they had a large shed. In other words,
4 it had a roof. It was a metal shed with no sides and
5 a concrete floor, which really wasn't completed.

6 He told me that this building belonged to
7 Mr. Seth Ward. Mr. Ward came by the brewery and got
8 me and showed me the building and wanted to sell it
9 to me.

10 Later on, McDougal talked to me about
11 moving my brewery out there and putting in a large
12 sporting goods store, or even more or less a dance
13 hall, restaurant, and what have you.

14 He was grandiose. I like Jim McDougal, I
15 really do. But he -- the world isn't always like he
16 thinks it is.

17 I went out to look at it. In fact, he flew
18 me to the bass pro shop in Springfield, Missouri, a
19 large sporting goods store, to look at that
20 operation. But nothing ever happened.

21 As I say, I was already in financial
22 trouble. The brewery was losing money, quite a bit of

1 money for me. And I certainly wasn't going to risk
2 anything else in buying that building and doing all
3 the other.

4 It was like a real estate dealer trying to
5 sell you something that you didn't want in the first
6 place.

7 That's the best way I can describe it.

8 Q Did you tell him that you did not want to
9 participate in that deal, or did you agree to look
10 further into it?

11 A I agreed to look at it. Sir, when you owe a
12 man money, you don't want to piss him off.

13 Do you understand what I mean? I looked at
14 it, and then I found out it was even in a dry part of
15 the county.

16 So we couldn't have done it, anyway.

17 Q Well, did he indicate to you that he would
18 assist you in obtaining some legal or regulatory
19 relief from the state that would allow you to build
20 this brewery and possibly have a tasting room or
21 restaurant on the premises?

22 A Yes, sir.

1 Q And how did he tell you he was going to
2 accomplish that?

3 A Well, when I told him that it was in a dry
4 county, he said that he could take care of that. The
5 financing would be available.

6 You know, as I say -- you'd have to know
7 him to really understand that he offered me many,
8 many, many deals. But I knew who was going to end up
9 paying for it.

10 Q Well, how did he tell you that he was going
11 to take care of the regulatory problems, the
12 restrictions on selling beer at a manufacturing
13 facility?

14 A Through his many years in government, state
15 government, his friendship with Bill Clinton, I think
16 Mr. McDougal thought that he could do anything.

17 Whether he could or not is debatable, but
18 he thought it.

19 Q He thought that, and he told you that he
20 could do that?

21 A Yes, sir.

22 Q Specifically, did he tell you that he could

1 get the regulatory restriction removed on selling
2 liquor at a manufacturing facility -- selling beer at
3 a manufacturing facility for beer, by talking to the
4 governor?

5 A Yes, sir.

6 Q And when the bill was ultimately withdrawn
7 that we talked about earlier, by Senator Scott, did
8 Mr. McDougal say that he could assist you with a
9 regulation by the ABC board?

10 A He insinuated to me that he could take care
11 of it, yes.

12 Q How did he insinuate to you that he could
13 take care of it?

14 A Just said that he could take care of it,
15 that he could get it done.

16 Q Did he tell you why the bill was withdrawn?

17 A No, sir.

18 Q So you were attempting to get this bill
19 passed through Senator Scott for the brewery that you
20 owed in Little Rock, and at the same time, Mr.
21 McDougal wanted you to invest in a brewery, move your
22 brewery to Castle Grande.

1 And so you were concerned about the
2 restrictions on both places in terms of the
3 manufacture of beer and the sale of it on premises.

4 Correct?

5 A Yes, sir.

6 Q Now once the regulation came down allowing
7 a tasting facility, a tasting room on the premises,
8 did you take any further steps to invest in the
9 property at Castle Grande?

10 A No, sir.

11 Q Now I'm going to represent to you that we
12 have a memorandum from Mr. McDougal to Seth Ward
13 indicating in November of 1985, specifically November
14 20th, 1985, that you, Bill Lyon, would be taking two
15 acres of "our best property, probably off the
16 southeast quadrant, to immediately begin construction
17 of the convenience store and gas station. This
18 location will be determined at our planning meeting
19 tomorrow.

20 "Subject to approval by the ABC, Bill will
21 place his brewery in the shell building, along with a
22 tasting room."

1 And McDougal further goes on to say -- "I
2 have spoken with the governor in this matter and
3 expect it will be approved."

4 Now, as I stated, this is a memorandum from
5 McDougal to Seth Ward.

6 Did McDougal make these representations --

7 MR. PORTNOY: Is there a date on that?

8 MR. GICALE: It was November 20th, 1985.

9 BY MR. GICALE:

10 Q Did McDougal also make these
11 representations to you?

12 A Mr. McDougal tried to get me to put in a
13 convenience store somewhere up there. That was one of
14 the deals. He offered me a convenience store, a
15 motel, the micro-brewery deal.

16 You name it, it was out there.

17 Q Well, by November of 1985, had you
18 committed to him that you would be taking two acres
19 of their property?

20 A No, sir, I never committed to Mr. McDougal
21 that I would be taking two acres of property.

22 Q In November of '85, did you indicate to him

1 that you would be placing your brewery in the shell
2 building that you earlier described, along with a
3 tasting room?

4 A No, sir, I did not because we didn't have
5 permission to do that from the Arkansas Beverage
6 Control Board.

7 Q Well, you did -- there was now by this time
8 a regulation in place that allowed for a tasting room
9 in a manufacturing facility.

10 Correct?

11 A Right. And so what?

12 Q All right. And your so what is the issue
13 with respect to the dry issue.

14 Correct? The dry county issue.

15 A I don't know about the dry county issue.
16 But as far as the ABC board allowing us a tasting
17 room, that didn't do anything for anyone.

18 Q Well, did you come to some agreement? Did
19 you have some agreement with McDougal by November of
20 '85 that you would put a brewery in the shell
21 building, along with a tasting room?

22 A Sir, I've told you about ten times, I did

1 not have any agreement with Jim McDougal to ever put
2 one in there.

3 Q Okay. Did he tell you that he had spoken to
4 the governor on that matter and expected it would be
5 approved?

6 A I do not --

7 MR. PORTNOY: What would be approved?

8 MR. GICALE: Expect that the brewery in the
9 shell building with the tasting room would be
10 approved.

11 THE WITNESS: He did tell me that he could
12 handle it. I do not know that he necessarily told me
13 that he spoke to Mr. Clinton about it.

14 But Mr. McDougal thought he could handle
15 anything through the state.

16 BY MR. GICALE:

17 Q Do you recall when you learned that the
18 proposed location for the brewery at Castle Grande
19 was in a township that was dry?

20 A I learned it from when I was talking to the
21 attorney at the ABC board. And I mentioned, you know,
22 the possibility of maybe moving out there when

1 McDougal first approached me about it. And he told me
2 that that part of the county was dry.

3 Q So you mentioned to the attorney at the ABC
4 board that McDougal was talking to you about moving
5 your brewery to Castle Grande.

6 A Yes, sir.

7 Q And it was the ABC attorney that first told
8 you that that township was dry.

9 A Yes, sir.

10 Q Do you recall when he told you that?

11 A No, sir.

12 Q I'm sorry. I didn't hear the answer.

13 A No, sir, I do not recall when.

14 Q Do you know if perhaps it was January or
15 February of 1986?

16 A Sir, I do not know.

17 Q Did you talk to McDougal about the fact
18 that the township was dry?

19 A Yes, sir, I did.

20 Q What did he say about that?

21 A He said that he could take care of it.

22 Q Did you tell McDougal about the

1 conversation that you had with the ABC lawyer with
2 respect to the fact that it was dry?

3 A I did not say I talked to Mr. so and so and
4 Mr. so and so told me that that part of the county
5 was dry.

6 I told Mr. McDougal that that part of the
7 county's dry.

8 Q Did McDougal appear to already know that at
9 the time you talked to him?

10 A I do not believe he did know it.

11 Q Did McDougal ever tell you that he obtained
12 information from Seth Ward's attorneys at the Rose
13 Law Firm about whether or not beer could be
14 manufactured or sold in the township where Castle
15 Grande was located?

16 A No, sir, he did not.

17 Q Do you know whether or not Mr. McDougal was
18 working with the Rose Law Firm to address this issue
19 with respect to the county being, the township being
20 dry?

21 A Sir, at that time, I never heard of the
22 Rose Law Firm.

1 I do know that Mrs. Clinton was on retainer
2 through the bank.

3 Q How did you know that?

4 A He told me that.

5 Q Who told you that?

6 A Jim McDougal told me that.

7 Q How did that come up?

8 A He was bragging about it.

9 Q When did he brag about that?

10 A I do not know when he did it.

11 Q Well, how did he brag to you that she was
12 on retainer to the bank?

13 A That he had Ms. Clinton on retainer and
14 that she was working at the bank.

15 I've never met Ms. Clinton, but he told me
16 that.

17 Q Did it come up --

18 MR. PORTNOY: She was -- I'm sorry --
19 working at the bank or for the bank?

20 THE WITNESS: Working for the bank. I never
21 saw her at the bank and I was in there at that time
22 possibly once a week.

1 BY MR. GICALE:

2 Q Now when you say he was bragging about it,
3 did it come up in discussions with respect to the
4 brewery, or was it with respect to some other
5 business deal that you had with him?

6 A No. Look, what it boils down to is whether,
7 right or wrong, Jim McDougal thought that he owned
8 Bill Clinton.

9 Now that's what it boils down to.

10 I don't know when he told me all of this,
11 what year it was, but he did tell me that.

12 Q He told you that he owned Bill Clinton?

13 A That's correct.

14 MR. PORTNOY: In those precise words, sir?

15 THE WITNESS: Yes, sir.

16 BY MR. GICALE:

17 Q Do you know whether it was at or about the
18 time that you wanted this law changed for the
19 brewery?

20 A No. That was before I wanted the law
21 changed.

22 Q And at the time he said he owned Bill

1 Clinton, did he also tell you that he had his wife
2 working for him at the bank?

3 A Yes, sir.

4 Q After you told McDougal that the township
5 where Castle Grande was located was dry, and after he
6 told you that he could take care of it, do you recall
7 what steps, if any, he took to take care of it?

8 A He did not take any steps, as far as I
9 know, to take care of it. I told him that I did not
10 want to do it.

11 Q Do you recall him every showing you any
12 legal papers regarding ways of getting around this
13 dry issue?

14 A No, sir. I would assume the only way to get
15 around it would be to hold an election within that
16 township.

17 But I do not know. He did not tell me how
18 he could do it.

19 Q Well, did he ever tell you that you could
20 make application to the Alcohol Beverage Control
21 Board to change the status of this township from dry
22 to a wet township?

- 1 A No, sir.
- 2 Q Did you know Seth Ward at that time?
- 3 A The only way I knew Mr. Ward is he was
- 4 trying to sell me the building or the shed.
- 5 Otherwise, I didn't know him at all.
- 6 Nice man.
- 7 Q So you did not have any dealings with the
- 8 Rose Law Firm.
- 9 Correct?
- 10 A That's correct.
- 11 Q On this brewery issue.
- 12 Correct?
- 13 A On any issue.
- 14 Q Did you talk to Seth Ward about the
- 15 brewery?
- 16 A No, I did not.
- 17 Q Did you talk to Seth Ward about the fact
- 18 that the township was dry?
- 19 A No, sir.
- 20 Q Did you know whether or not the rose law
- 21 firm had recommended a way of proceeding on this
- 22 wet/dry issue?

- 1 A No, sir.
- 2 Q Did you ever come to learn that the
- 3 Mitchell Law Firm in Little Rock, and specifically,
- 4 an attorney by the name of Marcella Taylor at that
- 5 firm, subsequently worked on that issue?
- 6 A Never heard of him.
- 7 Q Now earlier, you stated that you had loans
- 8 at Madison Guaranty Bank for your micro-brewery in
- 9 Little Rock. And it was at the same time that
- 10 McDougal wanted you to invest in this building at
- 11 Castle Grande, and you didn't want to anger him.
- 12 Did he threaten you with respect to the
- 13 loans that you had at Madison Guaranty?
- 14 A No, sir.
- 15 Q Now during the time period that you were
- 16 discussing this proposed law and the regulation that
- 17 occurred and your brewery in Little Rock and Mr.
- 18 McDougal's proposed brewery at Castle Grande, did you
- 19 have any other business dealings with him, other than
- 20 the Maple Creek Farms timber project?
- 21 A Yes, sir. I was logging the timber at
- 22 Castle Grande.

1 Q And what was your arrangement with him
2 there?

3 A My arrangement with him there is that he
4 wanted to take -- it was a selective cutting, trees
5 off of the -- he was going to make a subdivision out
6 of it. He wanted the timber out of the way in certain
7 areas.

8 You would leave the larger trees, get the
9 smaller. This is on the lots. Cut all of the trees
10 out of the streets, et cetera.

11 Q And how would you be paid for that? Was
12 that a 50/50 split, like he proposed earlier?

13 MR. PORTNOY: Actually, I believe the
14 testimony was that the Witness proposed a 50/50
15 split, not Mr. McDougal.

16 MR. GICALE: Okay.

17 BY MR. GICALE:

18 Q What was the financial arrangement for this
19 venture?

20 A That particular -- I did not want to do it
21 because -- he convinced me -- and he said, look, I
22 know that you didn't do any good on Maple Creek. But

1 on this one, you will be the only one here.

2 So I told him that we would try it.

3 And I got a forester and a company and I
4 told him that I wanted the timber merchandised. And
5 when I say merchandised, I wanted the pilings, the
6 piling at the higher price, the red oak, which he was
7 burning up down there. Those trees are worth \$200 or
8 \$300 apiece, merchandised and everything done exactly
9 right.

10 So, then, he sold it to his company and
11 they paid me.

12 Q Did you have any other business dealings
13 with him during this time period?

14 A Not to my knowledge, no, sir.

15 MR. MAYS: Let's get off the record.

16 MR. GICALE: Off the record.

17 (Discussion off the record.)

18 MR. GICALE: Back on the record.

19 BY MR. GICALE:

20 Q Were you involved in any other matters with
21 Mr. McDougal during this time period?

22 A Yes, sir.

1 Q Which other matters were you involved with
2 him in?

3 A I was appointed and really, I was appointed
4 by Jim McDougal to the state bank board.

5 Q And that was, you said, 1982?

6 A Yes, sir. I believe in 1982, Mr. McDougal
7 called me and asked if I would serve on the state
8 bank board. And I told him, yes.

9 It was a plum appointment, really. And he
10 told me that he would get Bill Clinton to appoint me.

11 And he did.

12 Q And you said you served on that from '82
13 through '86.

14 Correct?

15 A No, sir. I believe that I served through
16 sometime in '84, '85, right in there. I'm not sure.

17 I served under Mr. Clinton, his first term,
18 Governor White, and part of Governor Clinton's next
19 term.

20 I'm not sure of the dates.

21 Q Were you on the board during this time
22 period that you were seeking regulatory relief for

1 the brewery?

2 A I do not remember, sir. I was asked to
3 resign from the board.

4 Q All right. When were you asked to resign
5 from the board?

6 A I wish to talk to my attorney.

7 MR. MAYS: Let's go off the record for just
8 a minute.

9 (Discussion off the record.)

10 BY MR. GICALE:

11 Q When were you asked to resign from the
12 board?

13 A I was asked to resign from the board during
14 Clinton's second term, after he defeated Governor
15 White.

16 Q Who specifically asked you to resign?

17 A Mr. McDougal asked me to resign first. And
18 I told him that he no longer had anything to do with
19 the State of Arkansas. And he told me that he would
20 have the governor ask me to resign. And I told him
21 that if he asked me to resign, I would.

22 And within a month or so, the governor

1 called me and asked me to resign, and I did.

2 Q Governor Clinton called you and asked you
3 to resign?

4 A Yes, sir.

5 Q Did either Mr. McDougal or the governor
6 give you a reason why they wanted you to resign?

7 A Sir, Mr. McDougal had a capital deficiency
8 in his savings and loan. He was trying extremely hard
9 to get a stock issue, a preferred stock issue through
10 the State of Arkansas.

11 It was quite an unusual issue.

12 He came over and asked me to resign and to
13 serve on the savings and loan board, that he was
14 bound and determined to get the stock issue through
15 so that he could get his capital increased.

16 It was a preferred stock deal. It was a
17 neat thing. It was really a rip-off of the
18 stockholders. And I told Mr. McDougal that I would
19 not do it.

20 I did that for three reasons.

21 One, it made me madder than hell thinking
22 that he could tell me how to vote at anything.

1 The other one, the banker does not like a
2 savings and loan.

3 And the other one is it just flat wasn't
4 right. So I told him that I wouldn't do it. And
5 that's when he asked me to resign. I told him that he
6 couldn't do that. And he told me that Governor
7 Clinton, that he would get him to ask me to resign.

8 And that's what happened.

9 Q Now the savings and loan that you were
10 referring to was Madison Guaranty.

11 A That's correct.

12 Q So he asked you to resign to get on to the
13 state securities board.

14 Is that correct?

15 A No, sir. It was not the state securities
16 board. I believe it's a state savings and loan board.
17 I'm not sure what it was.

18 Anyway, it concerned savings and loan.

19 Q So he asked you to resign the bank board,
20 state bank board, to get on to the state savings and
21 loan board.

22 A That's correct.

1 Q And did he indicate to you that he could
2 get you placed onto the state savings and loan board?

3 A Yes, sir.

4 Q And he indicated he wanted you on the state
5 savings and loan board so that you could assist him
6 in this preferred stock offering, vote for it.

7 Is that correct?

8 A That's correct.

9 Q And did you tell him right away that you
10 would not do that, as soon as he suggested it?

11 A I told him, not no, but hell no.

12 Q And after you told him that, is that when
13 he said, well, then, I'm going to get you to resign?
14 I'm going to have you removed from the state bank
15 board.

16 A That's not what he said. He asked me to
17 resign from the state bank board.

18 I told him that he couldn't do that. He
19 told me that he would get Governor Clinton to ask me,
20 and I told him that if he asked me, I would resign.
21 I wouldn't serve on the board.

22 Q How long after you had this conversation

60

1 with McDougal did the governor call you?

2 A It was within a month or two. I really
3 didn't think that he would call me, sir. But he did.

4 Q And when the governor called you, what did
5 he say to you?

6 A He told me that Jim had indicated that if
7 he asked me to resign from the board, that I would do
8 so. And I told him that was correct.

9 And he said that he really did need the
10 appointment because somebody contributed a large sum
11 of money. And Mr. McDougal had told me previously the
12 man from Augusta, a Collins or Collier, or what have
13 you, to his campaign.

14 Mr. Clinton was very nice. He was a
15 gentleman about it. I was a gentleman about it. But
16 it pissed me off big time that he would do that.

17 Q Did he say anything else to you about it?

18 A No, sir. Nor did he mention any campaign
19 contributions or what have you.

20 That came from McDougal. He simply asked to
21 resign, told me that he needed the appointment and
22 how much he appreciated the fact that I had served,

1 and so on.

2 MR. PORTNOY: Can we, just to make that
3 clear.

4 Governor Clinton was not the one who said
5 to you that there was some big contributor involved.
6 That was from Mr. McDougal.

7 THE WITNESS: That came from Mr. McDougal,
8 sir. Governor Clinton was very nice. He asked me to
9 resign.

10 BY MR. GICALE:

11 Q All right. And so that we are clear, could
12 you restate this?

13 What was it exactly the governor said to
14 you?

15 A The governor called me over at the bank and
16 he told me that Jim had indicated to him that I would
17 resign if he asked me to. And that he appreciated it
18 very much because he really needed the position to
19 fill an obligation.

20 He thanked me for serving and asked that I
21 send a letter in, and I did. And that was that.

22 Q Now when you say that he called you at the

1 bank, which bank did he call you at?

2 A He called me at the Pine State Bank.

3 Q Now did McDougal tell you that the governor
4 was going to be calling you on this?

5 A He told me, yes, the day that he asked me
6 to resign. He told me that the governor would call.

7 Q The day that McDougal asked you to resign,
8 he told you that the governor would call.

9 A That's correct, that the governor would ask
10 me to resign. He didn't say call.

11 Q Did the governor make any reference to
12 having you move to the state savings and loan board?

13 A No, sir, he did not. And if you really
14 think about it, it's inconceivable to me.

15 A banker, a person that is a banker, is
16 completely different from a person that runs a
17 savings and loan.

18 They don't like each other.

19 That he would even think that any banker
20 would serve on that board.

21 Q Did the governor make any reference to the
22 preferred stock offering from Madison Guaranty that

1 McDougal talked to you about?

2 A None whatsoever, sir.

3 Q Did you have any further conversation with
4 the governor at that point?

5 A No, sir.

6 Q Did you submit your resignation shortly
7 thereafter?

8 A Yes, sir.

9 Q Did you talk to McDougal about the call you
10 had from the governor?

11 A No, sir.

12 Q Did you ever talk to McDougal again about
13 the resignation or the request of the governor to
14 resign?

15 A I did not.

16 MR. MAYS: Please.

17 MR. GICALE: I'm sorry. Do you want to go
18 off the record for a minute?

19 Do you want to go off the record?

20 MR. MAYS: Yes.

21 MR. GICALE: Okay.

22 (Discussion off the record.)

1 BY MR. GICALE:

2 Q As a member of the bank board, did you have
3 any responsibility for savings and loans?

4 A No.

5 Q So you would not have had any
6 responsibility for Madison Savings and Loan.

7 A No, sir.

8 Q Madison Guaranty. I'm sorry.

9 A Whatever. Any of that stuff.

10 Q You did not have oversight responsibility
11 for that bank.

12 Correct?

13 A I do want to say that Mr. Mays is right.

14 I'm really not sure what board. I've forgotten. But I
15 do know it concerned savings and loan. I do not think
16 it was the securities board or what have you.

17 I don't know.

18 Q But the point is that Mr. McDougal wanted
19 you to resign your position to move to some other
20 position which would allow you to make a decision on
21 his preferred stock offering.

22 Is that correct?

1 A Yes, sir, that's right.

2 Q Were you on the bank board at the point in
3 time when McDougal owned Madison Bank and Trust,
4 which was the Bank of Kingston, I believe?

5 A Yes, sir. I was on the bank board at the
6 time that they bought the Kingston Bank.

7 Q Were you aware of a cease and desist order
8 on that bank, the Bank of Kingston, that the Federal
9 Home Loan Bank Board had with that bank?

10 A Yes, sir, I was.

11 Q Were you involved in that at all?

12 A No, not really. The bank commissioner is
13 the one that issued that order.

14 Q The state bank commissioner?

15 A Yes, sir.

16 Q Who was that at the time?

17 A Marlin Jackson. And I say Marlin Jackson.
18 I believe that's who it was.

19 Q Do you recall why a cease-and-desist order
20 was issued on that bank?

21 A Yes, sir.

22 Q What were the reasons?

1 A They were loaning too much money, mainly to
2 politicians, without collateral.

3 They were loaning money from out of the
4 territory of the bank.

5 Q Do you recall which politicians they were
6 lending the money to without collateral?

7 A I recall one very definitely, sir.

8 Q Who was that?

9 A Mr. Clinton.

10 Q Mr. Clinton?

11 A Mr. Clinton.

12 Q How did you learn that?

13 A Through the newspapers.

14 Q Through the newspaper, at the time that you
15 were sitting on the board or at some later point?

16 A At some later point.

17 Q But did you know about it at the time that
18 you were on the board and at the time that the cease-
19 and-desist order was issued?

20 A Somehow, some way, I did know, and it's
21 probably by being on the state bank board that I was
22 told that and who they loaned the money to, and why

1 they issued the order.

2 It was discussed at one meeting. And I
3 don't believe it was even a formal meeting. It was
4 just -- we were talking about it before the meeting.

5 Q Who was on the bank board with you at that
6 time, if you recall?

7 A I do not recall, sir. They were from all
8 over the State of Arkansas.

9 Supposedly, we were appointed by
10 congressional districts.

11 Mr. Cherry was on the board at one time
12 from Jonesboro. A lady from the northwest part of the
13 state. Mr. James Atkins, an insurance man from Little
14 Rock.

15 And they would come and go, alternating
16 terms.

17 Q And so your recollection is that prior to
18 one of these bank board meetings, it was discussed
19 that Mr. Clinton had an unsecured loan at this bank?

20 A Yes, sir.

21 Q And you recall that as being one of the
22 reasons why there was a cease-and-desist order?

1 A It wasn't just Mr. Clinton. It was several
2 politicians, is what I was told. I remember Mr.
3 Tucker mentioned. I even remember Senator Fulbright
4 mentioned.

5 Q Was there a discussion about the out-of-
6 territory loans as well?

7 A Yes, sir, that they were all out-of-
8 territory loans, which, for a state bank, is illegal.

9 Q So the same loans that you were talking
10 about that were unsecured, were also out-of-
11 territory?

12 A Right.

13 Q And the loans to Mr. Clinton, Mr. Tucker,
14 Mr. Fulbright.

15 Is that correct?

16 A That's the names I remember.

17 Q Do you recall any other reasons for the
18 cease-and-desist order?

19 A No, sir, I do not.

20 Q Did you have to vote on the cease-and-
21 desist order?

22 A No, we did not vote on it. The bank

1 commissioner issued it.

2 Q What was your role or responsibility as a
3 member of the bank board?

4 A You would vote on various -- whether people
5 could put branches in, different things concerning
6 the bank.

7 The board itself is more or less a dog-and-
8 pony show, sir. The main work is done by the bank
9 commissioner and his staff of examiners.

10 Q And they make recommendations to the board
11 for decision-making?

12 A The board votes on various things, like if
13 you would be allowed to put a branch bank at this
14 location. If you will be allowed to open a bank at a
15 certain town, to charter a bank.

16 There are many different things that come
17 up. I've seen them argue all day long over three
18 feet, how close one bank was to the other.

19 Q When the cease-and-desist order was
20 entered, were there any concerns about McDougal's
21 activities at the Bank of Kingston?

22 A The only concern that I heard was expressed

70

1 by another person on the board, in that they didn't
2 know what the hell they were doing up there.

3 It was not basically discussed as a
4 meeting. What I'm telling you is hearsay. I have a
5 very vague memory from a long time ago.

6 Q But the they that you're referring to
7 includes McDougal.

8 A Yes.

9 Q Now at about that time, McDougal had stock
10 in the Bank of Kingston, had an ownership interest in
11 that, and then at about the same time, or
12 subsequently thereafter, he acquired an interest in
13 Madison Guaranty.

14 Is that correct?

15 A Yes, sir.

16 Q Was there any discussion about his ability
17 to have an ownership interest in this Bank of
18 Kingston which was subject to a cease-and-desist
19 order, and then a discussion about perhaps
20 recommending a prohibition against him acquiring an
21 interest in Madison Guaranty Savings and Loan?

22 A No, sir.

1 MR. PORTNOY: Could we clarify? I believe
2 Mr. Lyon testified earlier that the board he served
3 on had no regulatory authority over S&Ls.

4 MR. GICALE: I understand that. But --

5 MR. PORTNOY: But you're asking him about
6 whether there was any discussion of doing something
7 that wasn't within their authority. And I just want
8 the record to be clear.

9 MR. GICALE: Okay.

10 BY MR. GICALE:

11 Q Well, could you have -- if you were aware
12 that there were some concerns -- someone who had an
13 ownership interest in a bank regulated by the bank
14 commission, if you, as a member of the board, were
15 aware of some problems with someone who had an
16 ownership interest in a state bank, you were aware of
17 that. And then you found out that they were about to
18 acquire an interest in a savings and loan, was there
19 a means of conveying that information to the savings
20 and loan regulators in the state, or the Federal Home
21 Loan Bank Board, or the governor?

22 A Not to my knowledge, no, sir. We had

1 absolutely nothing to do with any federal or state
2 savings and loan.

3 That was completely separate and different.
4 They had no power at all over that.

5 They might do it as a matter of policy. It
6 might be conveyed, say, by the bank commissioner to
7 the governor. But other than that -- the savings and
8 loan that became Madison Guaranty, I don't know where
9 it is. It's up near Augusta, Arkansas. But it was
10 dead in the water, anyway.

11 I mean, he really didn't buy anything but a
12 charter.

13 Q Did McDougal ever indicate to you that he
14 had any influence over Marlin Jackson?

15 A Sir, nobody had any influence over Marlin
16 Jackson. A very fine bank commissioner.

17 Q Did McDougal ever indicate to you that he
18 had influence over him? Or did he brag to you about
19 some influence he had with Marlin Jackson?

20 A No, sir.

21 MR. GICALE: Off the record for a minute.
22 (Discussion off the record.)

1 MR. GICALE: Back on the record.

2 THE WITNESS: Yes, sir.

3 BY MR. GICALE:

4 Q Now, again, just to clarify something
5 because you made a statement and then, in an
6 off-the-record discussion, there was some further
7 discussion about what specifically you recalled
8 McDougal telling you.

9 But what today is your best recollection of
10 what Mr. McDougal told you about why he wanted you to
11 resign from the state bank board?

12 A He wanted me to resign from the state bank
13 board because he was interested in getting his stock,
14 a preferred stock deal for Madison in the regulatory
15 process -- he wanted me to be there to vote on it.

16 Q So he wanted to get you appointed to some
17 position that would allow you to vote on it, or
18 assist him in getting that preferred stock issue
19 through the regulatory process.

20 Correct?

21 A That's correct.

22 Q And do you recall today with any certainty

1 what position he wanted you to take after you
2 resigned from the bank board?

3 A No, sir. It was on the savings and loan
4 board, is all that I know.

5 However they route stock issues through,
6 whatever that is, would have been the board it was.
7 And I do not remember what board it was.

8 Q And it was after you refused to do that,
9 that he told you that he would have the governor ask
10 you to resign.

11 Correct?

12 A He said the governor would ask me to
13 resign, yes.

14 Q Did Mr. McDougal indicate to you that if
15 you resigned from this bank board, that he could get
16 you on to this other board or in this other position
17 so that you could assist him in obtaining this
18 preferred stock?

19 A It was just a statement of fact that he
20 could do it, yes.

21 Q Did he tell you how he could do it?

22 A No, sir.

1 Q Did he tell you that the governor could
2 assist him in doing that?

3 A No, sir.

4 MR. GICALE: I don't believe I have
5 anything further at this point.

6 Mr. Portnoy will now be asking you some
7 questions, Mr. Lyon.

8 THE WITNESS: Yes, sir.

9 EXAMINATION

10 BY MR. PORTNOY:

11 Q Good afternoon, sir.

12 A It may be for you, but it isn't for me.

13 (Laughter.)

14 Q I'll try to be more precise with my
15 questions than I appear to have been with my
16 salutation.

17 You knew Mr. McDougal since college, you
18 said?

19 A Yes, sir.

20 Q Would you describe him as a wheeler-dealer
21 type of person?

22 A Yes, sir.

1 Q He always had some kind of project or
2 scheme in mind?

3 A That's correct. He always had a deal for
4 you.

5 Q Sort of a salesman-type?

6 A Absolutely.

7 Q Would you say that he was prone to
8 exaggerate?

9 A Yes, sir, very much so.

10 Q And to brag?

11 A Brag.

12 Q When Mr. McDougal said to you that he could
13 fix any problem you might have with respect to your
14 brewery, did you view that as bragging?

15 A Not necessarily.

16 Q You thought there was some chance he might
17 actually be able to help you?

18 A Well, he put me on the bank board and he
19 took me off of it.

20 When you see it, you see it.

21 Q Now, your brewery project was never built,
22 was it, sir? Or never moved to Castle Grande.

1 A Oh, no, sir. No, sir. All of the questions
2 concerning that, it's just a real estate man to me
3 trying to sell me a building and to promote me buying
4 that building.

5 But nothing ever happened on that.

6 Q And there was never a bill passed by the
7 legislature, to your knowledge, to somehow make it
8 possible for you to have a brew pub.

9 A That's correct. Or allow me any really
10 special deal whatsoever.

11 Q And there were never any regulations passed
12 by the ABC -- the Alcoholic Beverage Commission --
13 which would have allowed you to have a brew pub.

14 Were there, sir?

15 A That's correct.

16 Q There was this tasting room regulation that
17 you mentioned. But you said that didn't help you
18 much.

19 A That didn't help me any.

20 Q So you didn't think that that was special
21 treatment.

22 A No. I did not feel that I received any

1 special treatment.

2 Q You indicated that the lawyer that you
3 spoke with at the Alcoholic Beverage Commission was,
4 in effect, the commission itself.

5 A Yes, sir, I did. He was the one that I
6 dealt with. He was the one that gave me answers to
7 any questions that I had.

8 And they have a board and they have a
9 commissioner. But, basically, as sometimes happens,
10 the attorney that handles the affairs of the
11 commission is the one that you really get your
12 answers from.

13 Q That attorney had been with the commission
14 a long time, I believe you said.

15 A Yes, he had.

16 Q He was a career employee of the commission?

17 A Yes, sir.

18 Q He wasn't appointed to his position by the
19 Clinton administration, was he, sir?

20 A I do not believe that he was. I think that
21 he worked there for many years.

22 The ABC chairman of the board, or the

1 commissioner, would be appointed by the governor.
 2 However, they came and went. A Mr. Moore was there at
 3 one time. A Mr. Singleton. And I forget who else.

4 But on this one attorney that I'm telling
 5 you about, it didn't take you long to get an answer
 6 whenever you asked him something.

7 He told you and that was pretty much it.

8 Q Was there ever a situation where he gave
 9 you one answer and the board or the commissioner came
 10 back and gave you a different answer, in your
 11 personal experience?

12 A In my personal experience, the brewery was
 13 down to it at one time. And Arkansas celebrated their
 14 100th year. So we made a --

15 Q Did you say the 100th year, sir?

16 A It was packaged in two bottles, two-bottle
 17 package. And it was going to really bring us out of
 18 it because it was a unique deal that you could buy
 19 and keep for a long time and maybe give your
 20 grandchildren, you know.

21 That was pretty much approved by him. And
 22 then, all of a sudden, the state said that it was an

1 illegal package and began to get it off of the shelf.

2 Q So the only time that the board reversed
 3 this lawyer in your dealings with him, they made it
 4 worse for you, not better.

5 A Right. That's correct. That's absolutely
 6 right.

7 Q Do you have any reason to believe, sir,
 8 that Mr. McDougal had any particular influence with
 9 this ABC lawyer?

10 A No, sir. I don't think he had any influence
 11 with the attorney that we're talking about.

12 Q And do you have any reason to believe, sir,
 13 that anyone in the Clinton administration tried to
 14 exercise any improper influence with either this
 15 individual or with the board on your behalf?

16 A No, sir, I do not.

17 Q You stated earlier, sir, that Mr. McDougal
 18 made some pretty far-ranging comments about his
 19 possible influence with Mr. Clinton.

20 I just wanted to clarify. Those comments
 21 arose before you ever began negotiating or discussing
 22 with Mr. McDougal the brewery.

1 Isn't that true?

2 A No, sir.

3 Q They continued? Is that what you're
4 saying, sir?

5 A Yes.

6 Q So that was a pretty consistent theme with
7 Mr. McDougal?

8 A Yes, sir. You named it. He does a lot of
9 bragging. He had a lot of deals. He thought he could
10 do anything.

11 Whether he could or not -- well, I guess
12 history has proven that he couldn't.

13 Q There was a memorandum that Mr. Gicale
14 referred to, and I apologize that, because we're on
15 the telephone, we can't show it to you. But the
16 memorandum was from Mr. McDougal to Mr. Ward.

17 In the memorandum, Mr. McDougal stated that
18 you had committed to put a convenience store and gas
19 station on two acres of Castle Grande.

20 That wasn't true, was it, sir?

21 A We talked about it, sir. We talked about a
22 motel and we talked about the brew pub. And as I

1 told you, every time that I would see him, it would
2 be a new deal.

3 Q But you never actually committed to any
4 such deal, did you, sir?

5 A I did not.

6 Q So would you view his telling Mr. Ward that
7 you did commit to a deal as more of his salesmanship,
8 more of his bragging?

9 A Yes, sir, I would. He may have been trying
10 to influence Mr. Ward to do something.

11 I don't know.

12 Only with Mr. Ward, say I went out and
13 looked at the building with him one morning -- that's
14 my only contact with him, sir.

15 And I was told that he was a salesman, a
16 real estate salesman for the savings and loan.

17 Q So you had no reason to know whether Mr.
18 Ward owed the building, for example.

19 A That's correct. I thought he did, the way
20 he was talking. But I did not know if he did or
21 didn't.

22 Q I'd like to discuss with you for a moment

1 the circumstances of your resignation from the bank
2 board.

3 You indicated that Mr. McDougal called you
4 and asked you to resign.

5 A No, sir. He came over to the brewery and
6 asked me to resign.

7 Q Did he indicate to you, sir, that at that
8 point, that Governor Clinton wanted you to resign?

9 A No, sir.

10 Q Did he indicate to you that Governor
11 Clinton didn't want you to resign?

12 In other words, sir, did he indicate to you
13 in any way, shape or form that he had previously
14 discussed the matter with Governor Clinton?

15 A Sir, I do not remember if he ever told me
16 that he had previously discussed the matter with
17 Governor Clinton or not.

18 I really do not.

19 I was told later that he needed the
20 appointment by Governor Clinton and by McDougal and
21 who they were going to appoint, and the reason that
22 he thought that he needed it.

1 And that's all I know.

2 Q And during the course of that conversation,
3 Mr. McDougal indicated that if you resigned from the
4 bank board, he could get you appointed to the S&L
5 board, or whatever entity that might be.

6 A His words were more in the effect like I
7 want you to resign from the bank board and we're
8 going to appoint you to the S&L board because I've
9 got to be sure that we get this stock issued.

10 Q And you naturally were disturbed by the
11 suggestion that your vote could be controlled.

12 A Well, you would be, too. Yes, sir. I didn't
13 like it.

14 Q I certainly can't blame you for that. Mr.
15 McDougal never indicated to you that he had spoken
16 with Governor Clinton about the preferred stock
17 offering in any way, did he, sir?

18 A No, sir.

19 Q So you have no reason to believe, do you,
20 sir, that the proposal to move you from the bank
21 board to the savings and loan board was anybody's
22 idea, except Mr. McDougal's, do you, sir?

1 A Well, McDougal wasn't in the state
2 government at that time. And if it was his idea --
3 I'll tell you this. I believe that he could have
4 done it.

5 Q Well, sir, I'm asking you a different
6 question, if you'll bear with me.

7 You testified that Mr. McDougal came to you
8 and indicated that he wanted you to resign from the
9 bank board and move over to the S&L board.

10 Is that correct?

11 A Or some board, yes, sir, that's correct.

12 Q And he indicated to you that one of the
13 reasons, or perhaps the reason he wanted you on the
14 S&L board was because he had a matter coming before
15 that board and he wanted a friend on the board.

16 A That's correct.

17 Q He didn't indicate to you that anybody else
18 was aware of his motivation for wanting you on the
19 S&L board, did he?

20 A No. But how in the hell would I ever get on
21 that board unless somebody else knew it?

22 Q Well, sir, I appreciate that Mr. McDougal

1 didn't have the authority to appoint you to the
2 board.

3 A He did appoint me to the bank board.

4 Q He assisted in arranging your appointment.

5 A He arranged my appointment, yes, sir.

6 Q Right.

7 A It kind of makes a believer out of you when
8 you see it, you know?

9 Q Yes, sir. But the question I'm asking you
10 is very specific.

11 A I know what you're leading to. I don't know
12 if Bill Clinton knew anything about it or not.

13 My assumption was that he did.

14 Q That he knew about the appointment to the
15 S&L board.

16 A That's correct.

17 Q What was the basis of that assumption?

18 A The basis of the assumption is that, at
19 that particular time, Mr. Clinton and Mr. McDougal
20 were friends. They were very close friends.

21 Q But you have no specific knowledge that Mr.
22 McDougal ever said anything to Mr. Clinton about the

1 preferred stock offering, for example.

2 A No, sir, I do not.

3 Q So it could well be that whatever Mr.

4 McDougal told you about why he wanted to see you

5 moved from one board to another, he told Governor

6 Clinton something completely different.

7 MR. GICALE: I object to the form of the

8 question. Is there a question, or is that a

9 statement?

10 MR. PORTNOY: Yes.

11 MR. GICALE: What is the question?

12 BY MR. PORTNOY:

13 Q The question is would you agree it's

14 possible that Mr. McDougal told you one thing about

15 why he wanted to move you from the bank board to the

16 S&L board, and told Governor Clinton something

17 completely different?

18 A I think it's possible, but not probable.

19 MR. GICALE: I would object to that. Unless

20 he knows what Mr. McDougal told Mr. Clinton, or Mr.

21 McDougal told him what he told Mr. Clinton, or Mr.

22 Clinton told him what McDougal said to him, it's

1 impossible for him to know.

2 MR. PORTNOY: And that's precisely what I'm

3 trying to establish, and I'll go through it question

4 by question.

5 BY MR. PORTNOY:

6 Q Mr. McDougal never told you what he told

7 Mr. Clinton with respect to you potential resignation

8 or appointment, did he?

9 A Rephrase the question, sir, or ask it

10 again.

11 Are you there?

12 Q I'm here, sir, and I'm going to try to

13 break it down into component parts.

14 A What it boils down to, I did not see, nor

15 did I hear, Mr. McDougal ever talk to Mr. Clinton

16 about anything.

17 Q And just to reiterate, sir, when Mr.

18 Clinton called you to ask that you resign from the

19 bank board, he told you that -- well, what, again,

20 did he tell you, sir?

21 A He told me that he really needed the

22 appointment, that Jim had indicated that if he asked

1 me to resign, I would be willing to do so, and that I
2 had served well, and laad-e-dah-de-dah.

3 He was very much a gentleman.

4 Q And he didn't mention the S&L board in any
5 way, did he, sir?

6 A No, sir. He didn't say that it's a shame
7 that we couldn't have appointed you to that board
8 where you could vote for Jim McDougal.

9 Q You were asked earlier about the cease-and-
10 desist order that the banking commissioner served on
11 the Bank of Kingston.

12 A Yes, sir.

13 Q You didn't vote on that.

14 Correct?

15 A No, sir.

16 Q Did you receive any kind of official report
17 with respect to that order?

18 A No, sir. In the banking industry, rumors
19 fly fairly fast. Anything that I heard about the
20 cease-and-desist order would have been what I would
21 say would be hearsay, this one and that one.

22 You always -- you know they've got one and

1 you're always going to ask, well, why?

2 Q Did you ever discuss it with Mr. Jackson?

3 A No, sir.

4 Q So your knowledge came from either press
5 accounts or conversations with other people who might
6 be interested.

7 A That's correct.

8 Q No first-hand knowledge of any kind.

9 A No first-hand knowledge of any kind, no.

10 Q Sir, to your knowledge, did anyone in the
11 Clinton administration ever do you any improper
12 favors?

13 A They did some improper favors all right.

14 Q Those being?

15 A They didn't do me any proper favors.

16 Q If you could explain, sir.

17 MR. GICALE: What time period are we
18 talking about?

19 THE WITNESS: Any time period.

20 MR. PORTNOY: Let me be more specific, sir.

21 BY MR. PORTNOY:

22 Q With respect to Mr. McDougal's attempt to

1 induce you to move your brewery to Castle Grande, to
 2 your knowledge, did anybody in the Clinton
 3 administration intercede on your behalf?

4 A To my knowledge, they did not, no.

5 MR. PORTNOY: That's all I have. Thank you,
 6 sir.

7 THE WITNESS: I appreciate your courtesy.

8 MR. GICALE: Well, Mr. Lyon, I've got a few
 9 more questions for you.

10 THE WITNESS: Yes, sir.

11 EXAMINATION

12 BY MR. GICALE:

13 Q Did you know Beverly Basset Schaffer?

14 A No, sir.

15 Q Or Beverly Basset, at the time?

16 A I do not know Ms. Basset. I do remember Mr.
 17 Clinton -- no, wait a minute -- Mr. McDougal telling
 18 me that Ms. Clinton, that they were good friends.

19 Q That Ms. Clinton and who were good friends?

20 A The name.

21 Q Beverly Basset?

22 A With Beverly Basset, yes, sir.

1 Q How did that come up?

2 A It was when he was trying to get the stock
 3 deal through.

4 Q What did he say to you about that?

5 A He said they were friends.

6 Q But was this before he asked you to resign
 7 or after he asked you to resign?

8 A Before.

9 Q Well, how did he bring it up? In what kind
 10 of a conversation?

11 A I don't remember. And I don't know Ms.
 12 Basset, never laid eyes on her. I really don't know
 13 Ms. Clinton. I do remember him telling me that they
 14 were friends.

15 And that's all there was to it.

16 Q Did you ever come to learn that Beverly
 17 Basset approved the preferred stock offering for
 18 Madison Guaranty that McDougal had been seeking?

19 A No, sir, I did not know that.

20 Q Other than the transactions you described
 21 in your earlier testimony, the timber work at Castle
 22 Grande, the timber work at Maple Creek Farms, and the

1 brewery transactions, were you involved in any other
2 business deals with Mr. McDougal or Madison Guaranty
3 Bank?

4 A Yes, sir, with Mr. McDougal. Mr. McDougal
5 borrowed some money from my bank. I believe he
6 originally borrowed \$12,000. That was used to make a
7 payment on lands on Maple Creek.

8 He paid that back.

9 Q When was that?

10 A Sometime in the '80s. Before Madison, I
11 think.

12 Q Before Madison Guaranty?

13 A Or maybe in the beginning of Madison
14 Guaranty.

15 Q He borrowed \$12,000 from your bank?

16 A Yes, sir.

17 Q To make a payment for Maple Creek.

18 A Yes, sir.

19 Q And you assisted him in obtaining that
20 loan?

21 A That's correct.

22 Q Did you have any other business dealings

1 with him?

2 A He borrowed \$20,000 to buy Ms. Susan
3 McDougal a car.

4 Q From the same bank?

5 A Yes, sir.

6 Q When was that?

7 A After the 12, sometime in the early '80s.

8 He did not pay all of it back.

9 If I remember correctly, he paid probably
10 \$4000 of it back.

11 Q Did you take any steps to collect on that
12 loan?

13 A Yes, sir.

14 Q Was that prior to -- what happened? Did
15 you eventually collect the money?

16 A I was trying to get my money out of him. He
17 had paid \$2000, then he paid another \$2000. The loan
18 was classified. And I didn't know anything was going
19 on with Madison, or anything else. I thought
20 everything was all right.

21 So I talked to that examiner and I told
22 him, look, I said, I cannot understand why you would

1 classify this loan.

2 I said, if he had gold in the vault in this
3 bank covering that loan, would you still classify it?
4 And he said, yes.

5 Q Now, what did classify mean?

6 A When you classify a loan, this is an
7 examiner's deal. When they classify a loan, then that
8 means the loan is in trouble, in their opinion, and
9 they deduct it from the amount of capital that you
10 have in your bank.

11 Q So some examiner classified -- came to your
12 bank and classified this loan?

13 A Yes.

14 Q And you questioned that.

15 A I did, yes, sir.

16 Q And what was the reason?

17 A He would not tell me the reason.

18 Q Did you later come to learn what the reason
19 was?

20 A Very swiftly.

21 Q Why was that?

22 A Well, it wasn't too long that the Federal

1 Government shut Madison down.

2 Q Did you have any other business
3 transactions with McDougal or Madison Guaranty?

4 A Sir, not to my knowledge. I tried to think
5 through it. It was a long time ago.

6 I don't really recall any other ones.

7 Q Did you ever discuss the cease-and-desist
8 order that McDougal had at the Bank of Kingston with
9 him?

10 A No, sir, I did not.

11 Q Since this time, in '84, '85, and '86, have
12 you since discussed this matter with McDougal or the
13 Clintons or anybody on behalf of the Clintons?

14 A I haven't seen Mr. McDougal since 1996, or
15 talked to him any. I've seen Mr. Clinton one time and
16 we -- I speak to him and he speaks to me, but we
17 really do not know each other very well, when he was
18 down here for a Chamber of Commerce luncheon that I
19 spoke to him.

20 Q Did you speak to him about any of these
21 issues?

22 A No, sir.

1 Q Okay. Did you speak to him about any of
2 these issues at any other time?

3 A No, sir. I'd say I met Mr. Clinton through
4 his years of campaigning, coming around. But other
5 than that, I've had no real dealing with him, as
6 such.

7 MR. GICALE: I have nothing further at this
8 point.

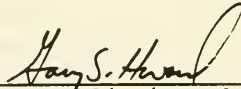
9 Off the record.

10
11 (Whereupon, at 1:28 p.m., the taking of the
12 deposition was concluded.)
13

14 -----
15 WILLIAM CAIN LYON
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, GARY S. HOWARD, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 2000

**DEPOSITION OF
ELLSWORTH RUSSELL WEBB, M.D.
IN RE: S. RES. 120**

MONDAY, DECEMBER 18, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of ELLSWORTH RUSSELL WEBB,
M.D., called for examination pursuant to notice of deposition, at
11:05 a.m. in Room 534 of the Dirksen Senate Office Building, be-
fore JANE W. BEACH, a Notary Public within and for the District
of Columbia, when were present:

MARK J. BRENNER, Esq.
Majority Assistant Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

CHARLES DARWIN "SKIP" DAVIDSON, Esq.
Davidson Law Firm, Ltd.
724 Garland, Cantrell At State
P.O. Box 1300
Little Rock, Arkansas 72203
On behalf of the Deponent.

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COMMITTEE CONFIDENTIAL

MR. BRENNER: Let's go on the record. I will start with a few preliminaries.

This deposition is going to be conducted pursuant to Senate Resolution 120. The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation; Madison Guaranty Savings & Loan Association; Capital Management Services, Incorporated; the Arkansas Development Finance Authority; and other related matters.

In particular, we are going to be focusing this morning primarily on Section I(b)(3)(B) of Senate Resolution 120. That authorizes an investigation and public hearings into "the activities, investments, and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors, and shareholders.

The deposition is going to be conducted in

4

advance of public hearings which are going to be held in January and perhaps in February, and at that point you may be called to testify.

Additionally, when I spoke to Skip, I mentioned to him that, depending on the answers we get today, we may ask you to come up for a follow-up deposition.

I am going to be asking a series of questions. I have with me James Redfern, who is our banking consultant for the Majority; and Glenn Ivey, who is here for the Minority.

MR. IVEY: Good morning.

MR. WEBB: Good morning.

MR. BRENNER: I am going to ask you a series of questions, and I am going to ask you to testify under oath. If you do not understand a question, let me know and I will rephrase it.

If you need a break, let me know as well. Additionally, in this case if there is a problem hearing me or hearing Glenn over the phone, please feel free to speak up.

The Stenographer is going to prepare a

1 record of the questions and answers, and the
2 deposition will be treated as Committee Confidential
3 until the commencement of the hearings.

4 Prior to the hearings you will receive a
5 letter from the Committee telling you that you may
6 come to the Senate to review the transcript of your
7 deposition and make note of any corrections for
8 transcription on an errata sheet.

9 Depending on what Glenn says, we may be
10 able to work out a way to get you a copy of the
11 deposition if we can get you to sign an agreement in
12 advance in terms of the confidentiality, because this
13 is a phone deposition and you are in Little Rock.

14 If you are called to testify at the public
15 hearings, we will provide you with a copy of your
16 deposition transcripts four days in advance of the
17 hearings.

18 You may be represented by counsel -- I know
19 you are represented by counsel. At this point, would
20 your counsel identify himself to the Court Reporter.
21 Skip?

22 MR. DAVIDSON: My name is Charles Darwin

1 "Skip" Davidson, Attorney licensed to practice in the
2 State of Arkansas. My office is in Little Rock,
3 Arkansas.

4 MR. BRENNER: Okay. Objections to the
5 form of questions, Skip if you have any, or if Glenn
6 has any, are going to be noted for the record.

7 Skip, you may object on grounds of
8 privilege or relevance and the Committee Chairman
9 will rule on all objections where the witness refuses
10 to answer the question.

11 At this point I am going to ask that the
12 Court Reporter swear the witness.

13 MS. BEACH: Mr. Davidson, I will need you
14 to verify for me that Dr. Webb is there and he is who
15 he says he is.

16 MR. DAVIDSON: I can do that. I can
17 verify that Dr. E. Russell Webb is sitting across the
18 desk from me and is prepared to take the oath and
19 testify.

20 MS. BEACH: Thank you.

21 Dr. Webb, would you raise your right hand,
22 please.

1 Whereupon,

2 ELLSWORTH RUSSELL WEBB, M.D.
3 was called for telephone deposition in the above-
4 entitled matter and, having been first duly
5 telephonically sworn as hereinabove noted, was
6 examined and testified from Little Rock, Arkansas, by
7 telephone as follows:

8 EXAMINATION

9 BY MR. BRENNER:

10 Q Can you please state your name for the
11 record?

12 A My name is Ellsworth Russell Webb.

13 Q Could you please spell your first name?

14 A E-L-L-S-W-O-R-T-H.

15

16

17 Q And your present business address?

18 A No. 10, Medical Plaza, Mountain Home,
19 Arkansas.

20 Q Could you just give a brief background of
21 your education and your employment history?

22 A My undergraduate education was at Wayne

1 State University in Detroit, Michigan. I am a
2 graduate of the University of Michigan Medical
3 School, 1971.

4 I trained at William Beaumont Hospital
5 from 1971 to 1976 in Detroit. I was in the military
6 service from 1976 to 1978.

7 In 1978 I moved to Mountain Home and
8 started my private practice.

9 Q Did you speak to anyone other than your
10 counsel prior to this deposition regarding matters
11 that we may question you about?

12 A No, I did not.

13 Q And have you testified about similar
14 matters before?

15 A No, I have not.

16 Q I am going to start with the formation of
17 Ozark Air Services.

18 Do you know Chris Wade?

19 A Yes, I do.

20 Q When did you first meet Mr. Wade?

21 A I first met him in about 1983.

22 Q How did this occur?

1 A We are both pilots, and we met at the
2 airport in Flippin, Arkansas.

3 Q At that point did you discuss with Mr.
4 Wade going into business? Or Did Mr. Wade discuss
5 with you going into business?

6 A I can't remember our exact conversation.

7 Q Do you recall any of the background facts
8 or background factors in deciding to start Ozark Air
9 Services?

10 A I had an airplane at the airport that the
11 FBO at the airport was using for charter service.

12 Q The? I'm sorry? Did you say "F-B-O"?

13 A Yes.

14 Q And what does that acronym stand for?

15 A Fixed Base Operator.

16 Q Could you repeat that? We had a bad
17 connection.

18 A Fixed Base Operator.

19 Q Thank you.

20 Was this the 1979 Piper Seminole?

21 A Yes.

22 Q When do you recall purchasing that plane?

10

1 A I believe I purchased the plane in about
2 1981 or 1982.

3 Q Do you recall roughly how much you paid
4 for the plane?

5 A It was in the mid-30s, the mid-\$30,000
6 range.

7 Q Did you have any other business dealings,
8 other than Ozark Air Services Corporation, with
9 Mr. Wade?

10 A No, I did not.

11 Q Prior to purchasing a group of lots from
12 Whitewater Development Corporation, could you tell me
13 the nature and extent of the business transactions of
14 Ozark Air Services?

15 A Ozark Air Services had the airplane -- my
16 airplane and his airplane -- and we were renting those
17 back to the Fixed Base Operator at the airport.

18 Q When you formed the corporation with
19 Mr. Wade, did you both transfer your airplanes to the
20 corporation?

21 A As I recall, we did.

22 Q I am trying to find out in terms of the

1 use of the plane -- do you know whether or not any of
2 the parties involved with Whitewater Development
3 Corporation -- meaning, Jim McDougal, Susan McDougal,
4 Bill Clinton or Hillary Clinton -- had used the plane?

5 A No, they did not.

6 Q Do you have a general estimate of the
7 value of the plane when it was transferred to
8 Mr. McDougal?

9 A Around \$36,000.

10 Q And did you transfer it to Whitewater
11 Development Corporation? Or did you transfer it to
12 Jim McDougal?

13 A All I did was sign the registration form.
14 I wasn't even sure who it was going to; I just signed
15 the form and it was transferred.

16 Q When did you first hear about Whitewater
17 Development Corporation?

18 A Chris mentioned it to me, I think it was
19 in 1985.

20 Q And do you recall generally what was said
21 to you by Mr. Wade?

22 A In general, he told me that there was a

1 development on the river near the airport, and that
2 the owners of the development were thinking about
3 selling the unsold lots in the development, and he
4 approached me about the possibility of us buying
5 them, the unsold property.

6 Q And what was your response to that?

7 A I wanted to see the property and think
8 about it.

9 Q And did you at that time go see the
10 property?

11 A Chris and I spent one day driving to the
12 property.

13 Q And what was your impression of the
14 property when you finally did see it?

15 A It was typical Ozark property. It had
16 fairly good White River views. It was quite rough.
17 The roads were in but were rough, also.

18 Q Did Mr. Wade mention to you at any time
19 before you agreed to buy the lots that he owned Ozark
20 Realty Company?

21 A Yes, I knew he owned Ozark Realty.

22 Q And did he also tell you that he might

1 receive commissions from the sale?

2 A Yes.

3 Q Did that concern you in any way?

4 A No, because as a realtor he was in a
5 position to market the property, and therefore he
6 would get a commission for doing that.

7 Q Do you recall generally when you went to
8 view the lots?

9 A I believe it was early in the
10 spring -- well, it was in the early summer or later
11 spring of '85.

12 Q Could you tell me, on May 4th, 1985, did
13 you sign an agreement to purchase the lots in
14 exchange for an assumption of \$35,000 of Whitewater
15 debt and your 1979 Piper Seminole?

16 A I remember signing the papers. I don't
17 remember the dates.

18 Q Did you have any discussions with Jim
19 McDougal or Susan McDougal or Bill Clinton or Hillary
20 Clinton about the property before signing?

21 A No. I was unaware of who the owners were
22 at that time.

1 Q Did you at the closing meet Mr. McDougal
2 or Susan McDougal or Bill Clinton or Hillary
3 Clinton?

4 A No.

5 Q Were you the one who represented Ozark Air
6 Services at the closing?

7 A No, I was not.

8 Q Who represented Ozark Air Services?

9 A Chris.

10 Q And do you know who represented Whitewater
11 Development Corporation?

12 A No, I don't.

13 Q Did Chris present to you to sign documents
14 so that you could assume \$35,000 of the Whitewater
15 debt?

16 A I signed documents to assume debt.

17 Q And did Chris present those to you?

18 A Yes.

19 Q Do you know who Seth Ward is?

20 A No, I don't.

21 Q We are trying to find out. There has been
22 some confusion.

1 Do you know what happened to your aircraft
2 after you transferred it to Mr. McDougal?

3 A No.

4 I have no idea.

5 Q Were you personally involved in any way in
6 any of the negotiations surrounding the transfer of
7 the lots to your corporation?

8 A No, I wasn't.

9 Q Was Chris representing Ozark Air in all of
10 those transactions?

11 A Yes.

12 Q And you understood at that time that he
13 was an agent for the seller, as well as the agent for
14 the buyer?

15 A I don't remember that he was an agent for
16 the seller.

17 Q Well, you stated earlier, and I am just
18 trying to make sure it is perfectly clear, that he
19 may receive commissions because he owner Ozark Realty
20 Company from the sale.

21 A I'm sorry? I'm confused.

22 I thought you meant commissioned for the

1 sale of the last half that we ought.

2 BY MR. BRENNER: (Resuming)

3 Q Oh, okay. Did you know he was in a
4 position to possibly receive commissions for the sale
5 of the lots to Ozark Air Services from Whitewater
6 Development Corporation?

7 A I did not know that at the time.

8 Q Have you subsequently come to know that?

9 A Only what I have read in the paper about
10 him being involved.

11 Q Do you know who did the legal work for
12 Ozark Air Services on this transaction?

13 A (Pause.)

14 Q Dr. Webb?

15 A I'm sorry. No, I do not.

16 Q Would you say that your involvement in
17 this transaction was limited to your discussions with
18 Chris Wade?

19 A Yes, it was.

20 Q Are you familiar, or have you come to
21 learn about a payment of \$25,000 by Whitewater
22 Development Corporation to Ozark Realty which

1 was owned by Chris and Rosalee Wade on March 22nd,
2 1985?

3 A I'm not aware of that.

4 Q Has anybody mentioned to you the fact that
5 there was a check that was written by Whitewater
6 Development Corporation for \$25,000 to Ozark Realty
7 Company?

8 A No, I was not aware of that.

9 Q Has Chris ever mentioned to you the fact
10 that he may have received some financial benefit in
11 terms of a payment by Whitewater Development
12 Corporation to him from the sale of the lots to you
13 from Whitewater Development Corporation?

14 And I could change the way I asked that
15 question, if you would like?

16 A I was not aware that Chris was receiving
17 any monetary benefit from the buying of the lots.

18 Q Has Chris subsequently told you that he
19 received either that check for \$25,000 or a check for
20 \$3000 that was also written to Chris Wade personally
21 from Whitewater Development Corporation?

22 A No, he hasn't.

1 Q Did Mr. Wade disclose to you any
2 information relating to his financial benefits that
3 he may have received from the sale to you of the bulk
4 of the lots?

5 A No, he did not.

6 Q What amount of income -- I am trying to find
7 out what amount of income Ozark Air was producing
8 prior to its purchase of the Whitewater lots.

9 A Ozark Air didn't really receive
10 essentially any income, and mostly lost. The note
11 for the plane had to be paid, and the rental of the
12 plane just barely paid the note.

13 Q Are you holding -- do you have documents
14 before you?

15 A Ummm --

16 Q Skip had mentioned that you may have some
17 documents.

18 A Yes, I have some.

19 Q This seems to be as good a point as any to
20 ask you if you could send a copy of those documents
21 to the Committee if they relate to Ozark Air's
22 purchase?

- 1 A Yes.
- 2 Q I would appreciate it.
- 3 MR. BRENNER: Let's go off the record a
- 4 minute.
- 5 (Discussion off the record.)
- 6 MR. BRENNER: Back on the record.
- 7 BY MR. BRENNER: (Resuming)
- 8 Q Dr. Webb?
- 9 A Yes.
- 10 Q You mentioned that there was a note on the
- 11 plane?
- 12 A Yes.
- 13 Q Did you, when you transferred the plane,
- 14 did you retain liability on that note?
- 15 A No, the note was paid off before the plane
- 16 was transferred.
- 17 Q And where did the money come from to pay
- 18 that note?
- 19 A I paid the money -- uh -- I'm not sure exactly
- 20 how the money was, uh, paid. I think Chris and I
- 21 both paid some of the note.
- 22 Q Just to be clear, during 1985 -- I say May

- 1 4th because the documents reflect May 4th, but you do
- 2 not have those documents before you -- when you
- 3 transferred the plane, part of the transaction was
- 4 that you would assume \$35,000 of Whitewater
- 5 Development debt?
- 6 Is that correct?
- 7 A I don't remember exactly what I assumed at
- 8 that point.
- 9 Q Well, do you remember that you assumed a
- 10 certain amount of debt?
- 11 Is that a fair statement?
- 12 A Yes.
- 13 A Do you recall during 1985, or at any point
- 14 subsequent to that, taking an interest deduction,
- 15 taking a tax deduction on payment of that interest
- 16 from that debt?
- 17 A During 1985?
- 18 I guess I'd have to defer to the tax
- 19 return.
- 20 Q Do you have those tax documents before
- 21 you?
- 22 A No, I -- I don't think so.

1 (Pause.)

2 No, I don't.

3 Q Okay.

4 I am going to try and walk through a
5 couple of the financial transactions by which Ozark
6 Air Services paid down some of the debt.

7 I have in my documents that on July 23rd,
8 1985, Ozark Air Services made a payment of \$9,500 on
9 its \$35,000 obligation to First Ozark National Bank.

10 Do you know anything about that?

11 A I vaguely remember that number and that
12 bank, but I don't remember the details of the
13 transaction.

14 Q Was Ozark Air Services, to your knowledge,
15 producing income at that point?

16 A In July of 1985?

17 Q In any time after the purchase of the
18 Whitewater Development lots.

19 A The only income was from the individual
20 sales of the lots and commissions from the sales.

21 Q Well Ozark Air Services did not receive
22 commissions from the sales, did they?

22

1 A No -- I'm sorry. Chris received the
2 commissions. It was only -- the only income was from
3 the sale of the lots.

4 Q And do you recall whether or not you sold
5 many lots in 1985?

6 A We had ongoing sales. Most were low-down-
7 payment monthly payment type sales.

8 Q Do you recall having to contribute any
9 money to Ozark Air Services during 1985 and 1986 so
10 as to help to pay down the note?

11 A I do not remember contributing any money.

12 Q Have you had any discussions with Jim
13 McDougal in the months and years subsequent to your
14 purchase of the lots?

15 A No, I haven't.

16 Q Has Mr. Wade mentioned to you any
17 discussions he had with Mr. McDougal related to the
18 sale and purchase of the Whitewater lots, or anything
19 else related to Whitewater Development Corporation?

20 A He didn't mention any conversations to me
21 about Mr. McDougal.

22 Q Did he have any other conversations with

1 you about the lots and about the transactions
2 surrounding those lots?

3 A We discussed, usually per telephone, the
4 sale of lots when they were sold, and the monthly
5 income from the sale.

6 Q Would you describe your role relative to
7 Mr. Wade's as the more passive of the two investors?

8 A Yes, I certainly would.

9 Q Did Mr. Wade ever talk to you or
10 communicate to you that Mr. McDougal was upset about
11 the fact that interest on your portion of the
12 Whitewater debt, which I say to you is \$35,000, that
13 the interest was being accumulated against Mr.
14 McDougal's portion of the note?

15 A No, I didn't know anything about that.

16 Q Have you had any contact with anyone from
17 First Ozark National Bank about your portion of the
18 Whitewater loan?

19 A At the time -- I may have at the time I
20 signed the note.

21 Q Okay.

22 Do you recall any of the surrounding

1 facts?

2 A No, I really don't.

3 Q Do you recall a period of time where no
4 payments were made against the principal of the debt
5 acquired by Ozark Air?

6 A No, I wasn't aware of that.

7 Q Could you describe some of the financial
8 history of Ozark Air in terms of its payment of
9 Whitewater debt at all?

10 A All I know is that we had a note. Payment
11 of the last -- was essentially paying the note, and
12 over a period of time the note was paid off.

13 Q Did you and Mr. Wade share the financial
14 burdens of payments on the first Ozark note equally?

15 A The "first note" payment?

16 Q In other words, the \$35,000 in debt; did
17 you and Chris pay in equally toward that debt?

18 A I believe we both paid towards it.

19 Q Do you recall whether or not you both paid
20 equally?

21 A No, I don't.

22 Q When you formed Ozark Air Services, was

1 your capital contribution equal or nearly equal to
2 Mr. Wade's?

3 A Yes. Our plan was to be equal.

4 Q Did that equality continue?

5 A In terms of monetary contribution?

6 Q Yes.

7 A As far as I recall, after we signed the
8 note and the sale of lots began to pay the note, no
9 other monetary contribution was needed.

10 Q Did Mr. Wade ever discuss with you his
11 request to a gentleman by the name of Ron Proctor at
12 First Ozark National Bank for a deferment of payments
13 for approximately eight months on your note debt?

14 A I've met Ron Proctor. I don't recall a
15 deferment on payments.

16 Q When do you recall meeting Ron Proctor?

17 A Yes.

18 Q I'm sorry? When do you recall?

19 A I met Ron Proctor at the bank many years
20 ago.

21 Q And what was the nature of your
22 relationship with Mr. Proctor?

1 A As I recall, Chris and I signed some
2 papers, or did some paperwork at Mr. Proctor's bank.

3 Q Do you recall any of the underlying facts
4 about that transaction?

5 A No, I really don't.

6 Q Were you and Mr. Wade friends during the
7 1980s?

8 A Yes.

9 Q Did Mr. Wade ever discuss with you his
10 personal financial burdens in November of 1989, or at
11 any point subsequent to the beginning of 1989?

12 A I knew he had other financial problems.
13 He never discussed with me the exact nature of them,
14 or the degree of them.

15 Q Did he ever discuss how that might impact
16 on your business dealings with him?

17 A As I recall, our business corporation was
18 a separate entity, and I did not feel it would have --
19 be impacted.

20 Q Do you recall having discussions with
21 Mr. Wade about his declaring Chapter 11 Bankruptcy in
22 November of 1989?

1 A He didn't recall discuss it with me at
2 any -- any degree.

3 Q Did he discuss it with you at all?

4 A I really don't remember that he did.

5 I heard about it, but I can't remember if
6 I heard it from him, or who from.

7 Q What do you recall hearing about it?

8 A Just that he was involved in the
9 bankruptcy.

10 Q Subsequent to that, Mr. and Mrs. Wade
11 converted their Chapter 11 bankruptcy into a Chapter
12 7 bankruptcy.

13 Do you recall any discussions of the
14 Chapter 7 bankruptcy?

15 A No, I don't.

16 Q Did Mr. Wade ever discuss with you how he
17 planned to value his portion of the Whitewater
18 Development lots for the purpose of this bankruptcy
19 filing?

20 A No, he didn't discuss that.

21 Q Did he at any point turn to you, or did he
22 mention to you turning to anyone else, about helping

1 him with his financial obligations related to
2 Whitewater?

3 A I don't recall that he did.

4 Q Do you know who Jim Blair is?

5 A Jim who?

6 Q Jim Blair.

7 A No, I don't.

8 Q Do you recall Mr. Wade ever talking to you
9 or mentioning the name "Jim Blair"?

10 A No, I don't.

11 Q Did Mr. Wade ever discuss with you during
12 1991 or 1992 any discussions he might have had with
13 third-parties related to the Whitewater debt that you
14 had assumed?

15 A No, he did not discuss anything, as I
16 recall, with me.

17 Q Do you recall whether or not Mr. Wade may
18 have mentioned to you the fact that he had visitors
19 from President Clinton's campaign during 1992 related
20 to Whitewater?

21 A No, I don't recall that he told me
22 anything about that.

1 Q Have you heard from third parties anything
2 about Mr. Wade being visited from the 1992 Clinton
3 Campaign?

4 A Not from the Clinton Campaign.

5 Q From where, sir?

6 A In the paper we read about the news media
7 going down and looking at Whitewater.

8 Q That was the only contact you recall?

9 A (Pause.)

10 Q Dr. Webb?

11 A Yes?

12 Q That was the only contact you recall?

13 A Sorry. Yes, that was my only contact.

14 Q Do you recall any of the surrounding facts
15 around a payment on May 12th, 1992, to close out the
16 Whitewater debt?

17 A May of '92?

18 Q Yes.

19 A At one point in time we paid down the
20 debt, but I don't remember the dates.

21 Q You recall paying down the debt?

22 A I remember the debt -- telling me the debt

30

1 was paid down.

2 Q Did Chris mention to you that he was going
3 to pay down the debt?

4 A My recollection was that it was being paid
5 on a monthly basis from the income of the lots.

6 MR. BRENNER: We are just going to go off
7 the record for a minute.

8 (Discussion off the record.)

9 MR. BRENNER: We will go back on the
10 record.

11 BY MR. BRENNER: (Resuming)

12 Q Dr. Webb, we were discussing the payment
13 of the Whitewater debt.

14 A Yes.

15 Q As I understand it, and maybe you can
16 explain differently, there was a negotiation for a
17 refinancing of a portion of your debt?

18 Is that correct?

19 A Yes.

20 I believe at one point in time we did
21 refinance.

22 Q Would you explain the refinancing to me?

1 A What time frame -- when?

2 Q As early as you remember refinancing.

3 A I remember refinancing, which basically
4 was a matter of signing a new note, maybe at a
5 different institution, but for the same amount.

6 Q Do you recall the amount?

7 A No.

8 Q Do you recall if the bank was Citizens
9 Bank?

10 A I remember the name "Citizens Bank."

11 Q Why did you refinance for the same amount?

12 A Bruce came to me wanting to move the note
13 to a different bank.

14 Q Did he say why?

15 A I don't recall that he did.

16 Q And you said, sure, no problem?

17 A Yes.

18 Q Did you provide any details or personal
19 financial statements to the new bank?

20 A I don't recall.

21 I don't think I did. I don't remember
22 that I did.

1 Q Do you recall any of the details
2 surrounding the refinancing?

3 A I just remember Chris coming to me wanting
4 to refinance to a new institution, (inaudible).

5 Q Could you repeat your last statement,
6 please?

7 A He refinanced the lapse to a new
8 institution with the same equity as before, being the
9 lots. That is all I recall.

10 Q Now your refinancing was the only property
11 of yours involved, the Ozark Air property, which is
12 the Whitewater Development lots? Or do you have to
13 make any other sort of guarantee?

14 A I do not make any other guaranty.

15 Q Getting back to the final payment of the
16 note, I have records that reflect that there was a
17 payment of approximately \$9600, although it is not
18 particularly readable, and that occurred May 12th,
19 1992.

20 Do you recall any payments being made at
21 that point?

22 A I don't remember any particulars. The

1 only thing Chris told me was sometimes he would sell
2 a lot for cash, rather than on a note, so he could
3 have developed the cash that way. I don't know.

4 Q Did you sign any of Ozark Air's checks?

5 A No, I didn't.

6 MR. BRENNER: Off the record.

7 (Discussion off the record.)

8 MR. BRENNER: Back on the record.

9 BY MR. BRENNER: (Resuming)

10 Q So you do not recall any of the details
11 surrounding an approximately \$9600 payment?

12 A No. No special details no.

13 Q Did it strike you as in any way peculiar
14 that an individual in Chapter 7 bankruptcy would be
15 making this sort of payment?

16 A No, not really. No.

17 Q Did he contact you at any point to let you
18 know he planned to pay off the Whitewater debt?

19 A No, we had discussed paying down the debt
20 and paying it off as soon as possible, but it was
21 just a matter of how much income we received as to
22 how fast you could pay off the debt.

1 Q What is the current status of your
2 involvement in Whitewater lots?

3 A Chris signed a note with me and bought my
4 half of the corporation.

5 Q When did this occur?

6 A 1993.

7 Q Do you recall approximately when in 1993?

8 A January of '93.

9 Q How much was the note for?

10 A \$51,000.

11 Q Was that \$51,000?

12 A Yes. He paid me \$51,000 on a note.

13 Q Has he subsequently paid off that debt to
14 you?

15 A He is paying me \$600 a month.

16 Q And what sort of interest is he paying?

17 A 8 percent.

18 Q Do you know how you came to the figure of
19 \$51,000?

20 A No. According to the corporate books, the
21 value of the property apparently was twice that.

22 Q And you are going to be providing us with

1 a copy of those books?

2 A I don't have any books with me, other than
3 paperwork sent by his accountant to me.

4 Q But you will be providing us with a copy
5 of those documents?

6 A Yes.

7 Q In 1984 -- I am going to go back -- there is a
8 statement by Whitewater Development Corporation that
9 the value of 23 of the 24 lots was \$191,550. Have
10 you ever seen a statement to that effect?

11 A No, I haven't -- I don't recall that I have.

12 Q Would you know roughly the fair market
13 value of those lots when you purchased them?

14 A Chris showed me on a single piece of paper
15 the retail price, what they were asking for the lots,
16 and the total value, and then we discussed what we
17 could buy them for as a group.

18 Q How would you describe your investment in
19 the lots? In other words, do you consider it a
20 financial success?

21 A (Pause.)

22 Q I'm sorry

1 A It was a very long-term investment, so
2 over time it was not a very good investment.

3 Q And do you place any of the blame for this
4 investment on Chris Wade?

5 A Well, at the time we had an airplane that
6 was not making any money, so -- I guess I did not have
7 great expectations in this field.

8 Q At the time of the investment, did you
9 know that he was the broker for Whitewater
10 Development Corporation on the sale of these lots for
11 nearly seven years prior to your purchasing them?

12 A No, I didn't know that.

13 Q Did you know that he was in a position to
14 know that these lots were not selling at the rate
15 that the original investors had anticipated?

16 A I'm sorry? Could you repeat that
17 question? I didn't hear it.

18 MR. BRENNER: Would you please read back
19 that question.

20 THE REPORTER: "Did you know that he was
21 in a position to know that these lots were not
22 selling at the rate that the original investors had

1 anticipated?"

2 THE WITNESS: We discussed, Chris and I
3 discussed the listed value of the lot, and we
4 discussed the realistic selling price that we could
5 obtain. And he let me know that it probably was not
6 as much as listed, but we thought it would more than
7 cover debt.

8 BY MR. BRENNER: (Resuming)

9 Q I want to go back for just a minute to the
10 \$51,000, the note that was signed by Chris Wade to
11 you.

12 What other assets or liabilities did Ozark
13 Air Services have at the time of the sale besides the
14 remaining lots and -- that's it; the debt was paid
15 off -- besides the remaining lots?

16 A That's it. It was the remaining lots were
17 the only assets.

18 Q Do you recall how many lots were left?

19 A And of course there were notes receivable.
20 There were people paying on a monthly basis on those
21 lots.

22 Q Were there any unsold lots?

1 A I don't recall that there were.

2 Q What happened to the second plane?

3 A The second plane in Ozark Air Service?

4 Q Yes, sir.

5 A That was sold way back.

6 Q Way back?

7 Could you give me an approximate year?

8 A '84-'85.

9 Q Do you recall if you sold it before or
10 after you acquired the Whitewater lots?

11 A I don't recall.

12 Q Do you have any records in your possession
13 that would reflect when that sale occurred?

14 A No, I don't.

15 Q Who is the document custodian for Ozark
16 Air Services, do you know?

17 A That was Chris.

18 Q Have you ever heard the name Susan
19 Thomases?

20 A Susan Thomases?

21 Q Yes.

22 A No, I haven't.

1 Q You can't see this, but I am looking at
 2 some notes that were made by Susan Thomases on March
 3 4th, 1992. And written in the notes is the name "Jim
 4 Blair," underlined, and then it says "Chris Wade
 5 rescued by, I believe, brother-in-law from deal that
 6 would have put him in jail. We are not to talk to
 7 Chris Wade because he's been through bankruptcy and
 8 is still target of fraud allegations. We believe we
 9 may have a cause of action versus him. Do not want
 10 to have contact with him because it would taint the
 11 suit."

12 Do you know if this could in any way
 13 relate to the purchase of the Whitewater lots?

14 A No, I don't.

15 MR. IVEY: By the way, if there is a Bates
 16 Stamp number you might want to put it in.

17 MR. BRENNER: I apologize. It is Bates
 18 Stamp ST0000038.

19 BY MR. BRENNER: (Resuming)

20 Q Have you ever considered pursuing any
 21 cause of action against Mr. Wade related to the
 22 Whitewater Development lot?

1 A No, I haven't.

2 Q Do you think Mr. Wade should have
 3 disclosed to you that he or his corporation appeared
 4 to have received \$28,000 in financial benefit from
 5 the sale to Ozark Air Services of the lots?

6 A Yes, I think that would have been
 7 appropriate.

8 Q On what, from your discussions with us,
 9 has been valued at a \$70,000 sale -- the \$35,000 value
 10 of the plane and the \$35,000 assumption of the debt --
 11 on that \$70,000, Mr. Wade received \$28,000 in
 12 financial benefit immediately.

13 Do you think that you received any
 14 financial benefit from the Whitewater lots?

15 A I received no benefit at all until he
 16 bought my equity in the -- back in '93.

17 (Pause.)

18 Q Do you know what Mr. Wade is doing
 19 currently professionally?

20 A He is in the real estate business.

21 Q When was the last time you spoke to
 22 Mr. Wade?

1 A Four or five months.

2 Q Was it related to the Whitewater lots?

3 A No. We happened to cross paths at a
4 restaurant and just said hello.

5 Q When was your last professional contact
6 with Mr. Wade?

7 Not your profession as a doctor, but your
8 profession as an investor in Ozark Air Services.

9 A I think it was back when we signed this
10 promissory note in '93.

11 Q Have you been receiving steady payments
12 from Mr. Wade of \$600 a month?

13 A Yes.

14 MR. BRENNER: Off the record.

15 (Discussion off the record.)

16 MR. BRENNER: Back on the record.

17 BY MR. BRENNER: (Resuming)

18 Q The \$51,000 note, is that secured by
19 anything? Or is that an unsecured note?

20 A I guess it was unsecured.

21 Q So you gave him an unsecured note at 8
22 percent interest?

1 A No.

2 Q I'm sorry?

3 A Well, I guess it was secured by the
4 property. There was no other security to it than the
5 property, or the notes receivable from the buyers.

6 Q Do you have a copy of that note signed by
7 Mr. Wade to you?

8 A Yes.

9 Q Could you provide us with a copy of that
10 note, please?

11 A Yes.

12 Q At this point if Mr. Ivey has some
13 questions, I am going to have Mr. Ivey ask those
14 questions and then I may have a few follow-up
15 questions.

16 EXAMINATION

17 BY MR. IVEY:

18 Q Good afternoon. I do not know that I am
19 going to have much.

20 Give me a moment to review my notes.

21 (Pause.)

22 MR. DAVIDSON: Let me clarify for the

1 record that the note which we have a copy of is
2 executed by Ozark Air Services, Inc., and is secured
3 by 100 shares of stock in Ozark Air Services, Inc.,
4 according to the face of the note.

5 MR. BRENNER: Skip, is that you?

6 MR. DAVIDSON: Yes.

7 MR. BRENNER: Skip, could you repeat that,
8 please, so we can put it on the record?

9 MR. DAVIDSON: Yes, sir. This is Skip
10 Davidson. Just to clarify Dr. Webb's testimony which
11 regard to the note which you asked him about, I am
12 holding a copy of what appears to be that note. That
13 is a January 1, 1993, note in the principal amount of
14 \$51,575. It recites on its face that it is secured
15 by 100 shares of stock in Ozark Air Services, Inc.,
16 and it is executed by Ozark Air Services, Inc., and
17 an illegible signature which would appear to be Chris
18 Wade's signature.

19 So it is corporate note, just to clarify
20 the record.

21 MR. IVEY: Let's go off the record.

22 (Discussion off the record.)

1 MR. IVEY: We are going to go back on the
2 record. I do not have any questions at this time.

3 I assume when you send up your additional
4 documentation there may be some chance of follow-up
5 questions, but I do not have anything at this point.

6 MR. BRENNER: If I could just ask one
7 follow-up, even though Glenn did not follow up:

8 FURTHER EXAMINATION

9 BY MR. BRENNER:

10 Q Did you have a lawyer look over the
11 documents related to the transfer of your rights to
12 your half of Ozark Air Services?

13 A Did a lawyer look over the documents?

14 Q Yes.

15 A No, I don't think so.

16 Q Did you have a concern about Mr. Wade's
17 bankruptcy and the fact that he was signing a \$51,000
18 note, even though it appears to be a corporate note,
19 that you may not receive that money? Was that a
20 concern?

21 A It was a concern, but it was a corporate
22 note.

1 Q Did you discuss that concern with anyone?

2 A I don't recall that I did.

3 MR. BRENNER: I would like to thank you
4 very much for your time this morning. We have
5 nothing further at this point.

6 MR. DAVIDSON: I have a question. This is
7 Skip Davidson. Do you have any special request or
8 instruction with regard to sending the documents to
9 you?

10 MR. BRENNER: Yes, Skip -- we can go off the
11 record.

12 (Discussion off the record.)

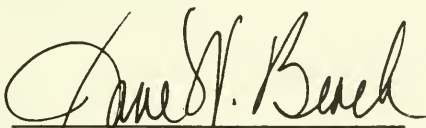
13 MR. BRENNER: Thank you very much for your
14 time this morning.

15 MR. IVEY: Have a good day.

16 (Whereupon, at 12:10 p.m., Monday,
17 December 18, 1995, the instant deposition was
18 adjourned.)

19
20 -----
21 ELLSWORTH RUSSELL WEBB, M.D.
22

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996

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**DEPOSITION OF CHARLES F. HANDLEY
IN RE: S. RES. 120**

TUESDAY, DECEMBER 19, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES F. HANDLEY, called for examination pursuant to notice of deposition, at 12:50 p.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
STEVEN H. FROMEWICK, Esq.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALSO PRESENT: JAMES F. REDFERN

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P R O C E E D I N G S

Whereupon,

CHARLES F. HANDLEY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record.

A Charles Francis Handley.

Q Your present business address.

A I work for the Arkansas Securities Department at 201 East Markham, Third Floor, Heritage West Building, Little Rock, Arkansas.

Q And what is your business phone number?

A Area code 501-324-9260.

Q What is your current position at the Arkansas Securities Department?

A I'm assistant securities commissioner.

Q How long have you been assistant securities

commissioner?

A Oh, a little over two years.

Q Prior to becoming assistant securities commissioner, what did you do?

A I was a financial examiner supervisor with the Arkansas Securities Department.

Q How long were you in that position?

A A long time. I've been with the department since '69, since I graduated from college. I mean, I don't know the exact year. My only employer since college since 1969 has been the Arkansas Securities Department.

Q When you first came on there, you were hired in what capacity?

A As an examiner.

Q And then how long were you an examiner approximately?

A Just guessing, five, six years, and then I became an examiner supervisor, and then I became assistant securities commissioner.

Q So you started out as an examiner for five or six years, then you became an examiner supervisor,

1 and you were an examiner supervisor until you were
2 assistant securities commissioner two years ago?

3 A That's correct.

4 Q Mr. Handley, this deposition is being
5 conducted pursuant to Senate Resolution 120. The
6 resolution establishes a Special Committee
7 administered by the Banking Committee to conduct an
8 investigation involving Whitewater Development
9 Corporation, Madison Guaranty Savings & Loan
10 Association, Capital Management Services, Inc. and
11 the Arkansas Development Finance Authority and other
12 related matters.

13 Section 1(b)(3)(a) and (b) of Senate
14 Resolution 120 authorizes an investigation and public
15 hearings into A, the operations, solvency and
16 regulation of Madison Guaranty Savings & Loan
17 Association and any subsidiary, affiliate or other
18 entity owned or controlled by Madison Guaranty
19 Savings & Loan Association; B, the activities,
20 investments and tax liability of Whitewater
21 Development Corporation and as related to Whitewater
22 Development Corporation of its officers directors and

1 shareholders. This will be the focus of today's
2 deposition.

3 You were requested to testify last week in
4 this matter. The deposition is being taken in
5 advance of a public hearing which will occur in early
6 1996. It is possible that you may testify at that
7 hearing. We'll be asking you a series of questions.
8 You, of course, are testifying under oath. If you
9 don't understand any questions, let us know and we
10 will rephrase the questions.

11 The stenographer is preparing a record of
12 the questions and answers. The deposition will be
13 treated as committee confidential until the
14 commencement of the hearings. Prior to the hearings,
15 you will receive a letter from the Committee telling
16 you that you may come to the Senate to review the
17 transcript of your deposition and make notes of any
18 errors on an errata sheet. I note you're in Little
19 Rock. We can make arrangements to make that
20 transcript available to you there so you can make
21 corrections.

22 A Okay.

1 Q If you are called to testify at a public
2 hearing, you will be permitted to have a copy of your
3 deposition transcript four days in advance of your
4 testimony. You may be represented by counsel. I
5 know today that you are not.

6 Objections to the form of the questions
7 will be noted for the record. Counsel may object on
8 grounds of privilege or relevance and the Committee
9 Chairman may rule on objections where the witness
10 refuses to answer a question.

11 Do you have any questions at this point?

12 A No.

13 Q Now, between 1984 and 1986, who did you
14 report to as a financial examiner supervisor?

15 A I think the last part of '94 was Lee --

16 Q '84.

17 A I said '94 -- '84, I think the last part of
18 it was Lee Thalheimer. I think he left mid part of
19 September, latter part of September and Beverly
20 Bassett became securities commissioner after Lee
21 Thalheimer left.

22 Q And you answered directly to Mr. Thalheimer

1 and later to Beverly Bassett?

2 A Yes.

3 Q In '84 and '85?

4 A Uh-huh.

5 Q What about a Mrs. Jones?

6 A She was chief examiner and technically, she
7 was my boss, but really we're such a small office,
8 generally if I had any questions or concerns, I
9 answered directly to the commissioner.

10 Q So then from 1985 until when did you answer
11 to Beverly Bassett?

12 A Until she left. I don't know what date
13 that was.

14 Q Well, she continued on there through '85
15 and '86 and '87; correct?

16 A Yes.

17 Q Now, are you aware of a request of the
18 Committee requesting documents from your department?

19 A Yes.

20 Q Did you assist in searching for documents
21 in response to that request?

22 A Maybe not -- we've been subpoenaed and

1 given those away. I helped assimilate them at the
2 beginning but not specifically for that request
3 because they had already been assembled.

4 Q Have you reviewed your records and searched
5 your records to determine whether or not you have any
6 records with respect to these issues, and have you
7 turned them over to the department to turn over to
8 the Committee?

9 A I believe myself and my department has
10 made -- has turned over all the records available.

11 Q Did you have an opportunity to review any
12 of these records before you testified?

13 A Yes. I didn't review them recently but I
14 have, of course. A lot of them were generated by
15 myself and over the time -- prior testimony and
16 hearings I have reviewed them but not specifically
17 like the day before.

18 Q Did you speak to anyone prior to your
19 deposition today about the substance of your
20 testimony today?

21 A I spoke to my boss, Joe Madden, and told
22 him I was coming.

1 Q Joe Madden?

2 A Yes.

3 Q He's the present securities commissioner?

4 A Correct, Joe E. Madden, Jr.

5 Q Did you talk to him about what you'd be
6 testifying to?

7 A In general, that I had been subpoenaed
8 regarding the Whitewater matter, Madison Guaranty.

9 Q Did you talk to anybody else about the
10 substance of your testimony today?

11 A No.

12 Q Now, going back to 1985, do you recall when
13 it was that you first heard of a request by Madison
14 Guaranty for approval for a preferred stock plan?

15 A April -- by a letter from the Rose Law Firm
16 in the latter part of April.

17 Q Showing you what's marked for
18 identification as document 000084, a letter dated
19 April 30, 1985, and it's to Charles Handley regarding
20 authorization and issuance of a class of preferred
21 stock by Madison Guaranty signed "very truly yours,
22 the Rose Law Firm."

1 Is this letter the letter you're referring
2 to?

3 A Yes.

4 Q And did you receive this directly, or did
5 somebody else hand you this letter?

6 A The policy was all the mail is assembled at
7 the commission and in the commissioner's absence, the
8 assistant commissioner will review the mail and pass
9 it out to the various departments, so I got it after
10 this time, after Beverly had reviewed it.

11 Q So initially, while it was addressed to you
12 and there was a cc to Beverly Bassett, she reviewed
13 the letter and handed it to you?

14 A Uh-huh.

15 MR. COLE: And I believe you to say that
16 was in accordance with the normal practice in the law
17 firm?

18 THE WITNESS: Yes.

19 MR. COLE: Thank you. Thank you,
20 Mr. Gicale.

21 BY MR. GICALE:

22 Q When she handed you the letter, did you

1 have any conversation with her about it?

2 A I can't remember specifically, but I don't
3 recall having any. This would come in the
4 correspondence that dealt with my section. It would
5 just be in the pile. I know I didn't get it
6 specifically. It would be that day's mail.

7 Q So it came in the mail. Did she hand it
8 over to you, or did she have a conversation with you
9 about it at the very beginning when the letter was
10 handed --

11 A No, I don't recall discussing this. I
12 mean, I just got it.

13 Q Prior to receiving this letter, did you
14 have any conversations with anyone at Madison
15 Guaranty Bank about this request?

16 A No, I don't recall. I think maybe one of
17 their employees phoned up and asked if we had an
18 application.

19 Q Do you know if you talked to Mr. Latham
20 about the possibility of this request?

21 A No, I don't think I recall Latham. That
22 guy in there was named Fitzhugh, the guy I talked to,

1 wanted to know if we had a specific form to file a
2 request to do this. As I recall, I told him no.

3 Q Did you tell him he had to write a letter
4 at that point?

5 A Yeah, just a letter.

6 Q Do you know prior to receiving this letter
7 whether you had any conversations with anybody at the
8 Rose Law Firm about this letter, this request?

9 A No, I know I didn't have a conversation
10 with the Rose Law Firm regarding this.

11 Q You did not?

12 A No, I didn't.

13 Q The letter generally concludes while there
14 is not a specific provision for preferred stock, that
15 under the Arkansas Business Corporation Act, that it
16 would be appropriate. Did you agree with that at the
17 time you reviewed it?

18 A No, not initially. My concern -- I wrote a
19 memo -- was our act only speaks of one class of
20 stock, capital stock, and not preferred stock. That
21 was my concern, and I think I wrote Beverly and Nancy
22 a memo regarding that.

1 Q I'm going to show you what's marked for
2 identification with the same Bates number as
3 before --

4 MR. COLE: For some reason, all of these
5 documents are numbered quadruple or more zero 84.

6 MR. GICALE: But there are other Bates
7 numbers. Just to go back and straighten out the
8 record, the letter of April 30, 1985, there's another
9 Bates number 5000286, so I will start referring to --

10 THE WITNESS: What's the Bates number?

11 MR. COLE: These are the numbers that are
12 manually stamped at the bottom of the document in
13 litigation or other proceeding.

14 BY MR. GICALE:

15 Q Now, referring to the second document that
16 I've shown you which is marked number 5000289, this
17 is a -- this appears to be a copy of some notes from
18 you to Beverly and Nancy dated May 6, 198 -- I
19 believe it's 1985, although the last digit is not on
20 this copy. Are these the notes or memo you were
21 referring to earlier?

22 A Yes.

1 MR. COLE: Just for the record, I would
2 note that this appears to be a form of routing slip
3 that has notes on the routing slips.

4 BY MR. GICALE:

5 Q This is your writing on this routing slip;
6 correct?

7 A It is.

8 Q Could you read this to us?

9 A I'll try. It's addressed to Beverly and
10 Nancy from Charles, date May 6, 1984. It's blocked
11 out --

12 Q '84 or '85. This request was in 1985;
13 correct?

14 A '85. It's blocked out on the memo.

15 MR. COLE: It didn't -- it's not blocked
16 out. It's just at the far right margin of the
17 document and apparently it didn't copy when this
18 document was copied.

19 THE WITNESS: Yes, that's correct. It
20 reads "attached is a copy of a letter dated April 30,
21 1985 from the Rose Law Firm which states" -- "which
22 sets forth Madison's plan to issue preferred stock,

1 in legal opinion, that Madison can issue such
2 preferred stock. Perhaps one of our attorneys should
3 review this matter and issue a legal opinion
4 regarding such and advise the Rose Law Firm and
5 Madison. I'm of the opinion that our S&L statute
6 only allows a stock association to issue capital or
7 permanent capital stock. Thus, if preferred could be
8 issued, it would have to be done under the wild card
9 provisions, section 58 of Act 207 of 1963 and" --
10 it's hard to read -- "and of section 58 is broad
11 enough."

12 BY MR. GICALE:

13 Q Does that say only if section 58 is broad
14 enough? Does that word before "of" "only" under the
15 printing "per conversation"?

16 A I'm not sure what that word is. I can't
17 read it. I don't know what it is.

18 Q So the last part of that --

19 A It says "thanks. P.S. Based on their
20 12/31 audit report, Madison will have to -- is in
21 need of additional" -- I don't know what that last
22 word is.

1 Q Now, as a result of this, did you -- this
2 request, did you have occasion to review the sections
3 of the law that Mr. -- the Rose Law Firm had
4 submitted with respect to this request?

5 A I don't recall ever looking at those
6 sections in the letter.

7 Q Did you look at the wild card sections that
8 you referred to?

9 A Yes, it's a part of our act, the wild card
10 section is part of the S&L Act. The wild card
11 sections -- we have a part of the act in the rules
12 that says --

13 Q Which act is this?

14 A The Arkansas Savings and Loan Act. The
15 wild card section I was talking about is we have a
16 provision in the S&L Act that we administer, that the
17 board administers in our department that says that a
18 state chartered association can make any investment
19 and do anything that a federal association in the
20 state to give them parity with the federals. That's
21 what we call the wild card statute.

22 MR. GICALE: Off the record.

1 (Discussion off the record.)

2 THE WITNESS: It was section 58.

3 BY MR. GICALE:

4 Q Mr. Handley, the section that you were
5 referring to at the time, the wild card section or
6 provision was section 58 of Act 227; is that
7 correct? This enumerates additional power of
8 associations?

9 A That's correct.

10 Q And that section says as follows: "With
11 the approval of the supervisor, an association may
12 make any loan or investment that a federal
13 association is authorized to make irrespective of any
14 limitation contained in this act or under the
15 existing laws of this state."

16 A That's correct. That was the document to
17 give state charters parity with the federal
18 associations.

19 Q That section addresses loans or
20 investments; correct?

21 A Uh-huh.

22 Q How did that section apply to issuing

1 preferred stock?

2 A I believe it's been broadened. And there's
3 a rule that says this. I believe that has been -- we
4 need to find it in the statute here.

5 MR. GICALE: Go off the record again.

6 (Discussion off the record.)

7 BY MR. GICALE:

8 Q Mr. Handley, in your memo, you refer to
9 section -- the wild card provision, and then after
10 that, there is a reference to section 58 of the Act.
11 And earlier you testified, and I read to you section
12 58, and then you determined that after reviewing that
13 section again that that really was not the act that
14 you had been referring to; is that correct?

15 A Yes. That's not the section of the act --
16 after you asked me the question and reviewing the act
17 and rules, I miscited the wild card provision in my
18 memo. It's actually currently Arkansas code
19 annotated 23-37-401 and rule 3 of the rules are the
20 same as the loan board.

21 Q And this section and these rules were in
22 effect in 1985; is that correct?

20

1 A Yes.

2 Q And what is the title of that section
3 23-37-401?

4 A "Powers commensurate with federal
5 associations."

6 MR. COLE: Could I ask a clarifying
7 question, Mr. Handley? Mr. Gicale previously showed
8 you a copy of an April 30, 1985 letter from the Rose
9 Law Firm directly addressed to you. And that letter
10 cites Arkansas statute 67, section 1864, and quotes
11 it as -- provides in pertinent part the Arkansas
12 Business Corporation Act as amended shall be
13 applicable to permanent stock savings and loan
14 associations created or operating under the
15 provisions of Act 227 of 1963 and such savings and
16 loan associations shall enjoy the same powers and
17 privileges to be subject to the same duties,
18 restrictions and liabilities as other corporations
19 except so far as the same may be limited or enlarged
20 by the provisions of Act 227 of 1963."

21 Is the statute that I just quoted that's
22 cited in this Rose Law Firm letter not what you've

1 referred to as the wild card statute?

2 THE WITNESS: No, it's not. This is a
3 different statute, other than S&L and Building and
4 Loan Act. This is the Arkansas --

5 MR. COLE: That's a statute of general
6 application to all corporations in the state of
7 Arkansas.

8 THE WITNESS: Right.

9 MR. COLE: And it was your view as
10 reflected in your notes that rather than the statute
11 cited in the Rose Law Firm governing, it would, if at
12 all, be governed by what you referred to as the wild
13 card statute under your --

14 THE WITNESS: I thought that would be a
15 better thing to do.

16 MR. COLE: I just wanted to understand the
17 legal analysis that you were going through here. Are
18 you an attorney?

19 THE WITNESS: No, I'm an accountant.

20 MR. COLE: Certified public accountant?

21 THE WITNESS: No. I have an accounting
22 degree.

1 MR. COLE: Thank you.

2 BY MR. GICALE:

3 Q So you were basing your analysis on this
4 provision 23-37-401 and the rule that was in Act --

5 A I thought that would be the better way to
6 go. First of all, I requested that one of our
7 attorneys look at this and give his opinion, which
8 would be applicable. Although at the bottom half of
9 my opinion, I thought the way to do it would be under
10 the wild card provision because federals could do it
11 at the time and the statute allows our association to
12 do anything the federals could do. Therefore, they
13 could do it. But I thought that's the authority that
14 would allow them to do it.

15 Q Which of these sections in that wild card
16 provision did you think was applicable?

17 A It would be section 4, "adopt any business
18 practice, procedure, method or system authorized by
19 federal association doing business in the state
20 except nothing herein will permit an extension of
21 state savings and loan branching authority beyond the
22 limitations of state law."

1 Q Now, did federal associations during that
2 time period authorize this type of practice,
3 procedure or method?

4 A Yes.

5 Q The granting of preferred stock?

6 A Uh-huh.

7 Q So as to be clear, the rule --

8 A It's just a paraphrase of that.

9 Q -- that you referred to is rule 3; is that
10 correct?

11 A That's right.

12 Q And the preamble to that says "pursuant to
13 Act 242 of the general assembly of the state of
14 Arkansas for 1969 the savings and loan association
15 hereby adopts the following regulations." And were
16 you referring to section C of that regulation?

17 A Yes.

18 Q And that states as follows -- could you
19 read that?

20 A Section C is "adopt any business practice,
21 procedure, method or system authorized by a federal
22 association doing business in the state."

1 Q Now, earlier you also referred to a section
2 of the law that authorized permanent capital stock.
3 And I'm going to show you section 18 of Act 227, and
4 if you want, we can go off the record for a minute.

5 (Discussion off the record.)

6 BY MR. GICALE:

7 Q Now, after reviewing the Arkansas statute,
8 the permanent capital stock provision that you
9 earlier referenced was section what?

10 A Arkansas code annotated 23-37-303 and the
11 title to that is "Permanent capital stock."

12 Q And the provision you were referencing, the
13 section of that that you were referencing was what?

14 A Well, the whole section in general because
15 it speaks with the whole -- the words used there is
16 permanent capital stock.

17 Q Can you just read into the record
18 section A.

19 A "The charter of the association may provide
20 for the issuance of permanent capital stock. The
21 permanent capital stock when issued may not be
22 retired or withdrawn except as provided in this

1 section until all liabilities of the association
2 shall have been satisfied in full without the
3 withdrawal value of all savings accounts."

4 Q Now, how did you view the issuance of
5 preferred stock compared to the permanent capital
6 stock? What did you view to be the difference
7 between the two?

8 A The difference between common stock --

9 Q As defined in this section and as requested
10 by the Rose Law Firm.

11 MR. COLE: If you had a view, Mr. Handley.
12 I mean, number one, you're not an attorney. And
13 Mr. Gicale is entitled to get all the facts here, but
14 he's essentially asking you for a legal opinion. If
15 you were meaning to convey that in your memorandum,
16 that's fine. But if you were referring this to an
17 attorney and citing some statutory sections, you can
18 tell him that as well.

19 THE WITNESS: Well, there are two different
20 classes of stock that would have different terms and
21 different values to them, and I wanted to get an
22 opinion. But really, in my view, when I wrote the

1 memo, the view was different between common stock and
2 preferred stock, which preferred stock has a stated
3 rate and has preference to liquidation value where
4 the common or capital stock doesn't.

5 BY MR. GICALE:

6 Q Well, specifically, the letter of April 30,
7 1985, the first paragraph says "Madison Guaranty, a
8 savings and loan chartered under the laws of the
9 state of Arkansas contemplates a capitalization plan
10 whereby it would authorize and issue a class of
11 nonvoting preferred stock which would have preference
12 as to dividends and amounts paid in liquidation."

13 A Right. That's what a preferred stock is.

14 Q Now, wouldn't that be inconsistent with
15 section 23-37-303, which defines permanent capital
16 stock and says that that -- when issued, it may not
17 be retired or withdrawn except as provided in the
18 section until all liabilities of the association
19 shall be satisfied in full?

20 MR. COLE: I'd like to state for the
21 record -- and obviously he can go ahead and answer,
22 but I don't think it's appropriate to ask this

1 witness to perform a legal analysis beyond what is
2 stated in his memorandum. And an argumentative
3 exchange with him as to what the law is is
4 inappropriate in view of the fact he was not an
5 attorney and wrote a memo specifically indicating
6 that this matter should be reviewed by an attorney.

7 If you can answer the question, go ahead,
8 but I just wanted to put that on the record.

9 THE WITNESS: I agree with your position.
10 That's the reason I wrote this memo, was to get a
11 question on that because I did think there may have
12 been a conflict, because as I said in the memo,
13 that's the issue of what we're talking about, is our
14 act on its face speaks only of capital or common
15 stock. However, there is another provision which
16 would allow them to do anything a federal can do and
17 a federal could issue preferred stock, and in here
18 they cited a corporate statute -- a corporation code
19 statute which says that Arkansas corporations could
20 issue the stock.

21 So I mean, we had some kind of conflicts
22 there, and that's what I was trying to get resolved

1 since I wasn't an attorney, and that's what that memo
2 addresses, and that's what it says.

3 BY MR. GICALE:

4 Q I understand. I mean, you will admit at
5 this point that there was a conflict based on what
6 you observed or knew the law to be?

7 A That's what the memo says, I think.

8 MR. COLE: And I think that's what you said
9 in your testimony moments ago.

10 BY MR. GICALE:

11 Q Do you know after you suggested to Beverly
12 and Nancy in this memo that perhaps one of the
13 attorneys should review it, whether or not they had
14 anybody review it?

15 A Yes. They gave it to one of our staff --
16 Beverly gave it to one of our staff attorneys who was
17 named Bill Brady.

18 Q After if you wrote this note, did you have
19 a conversation with Beverly and Nancy about this?

20 A Yes, I did.

21 Q How soon after you wrote the note?

22 A I mean, I can't remember specifically

1 because it was a long time ago, but shortly after it,
2 within a day or two.

3 Q Did Beverly and Nancy call you in and say
4 could you explain what you meant by all this or was
5 it after they had sent it to an attorney?

6 A I mean, I don't know when Beverly gave it
7 to the staff attorney. I mean, so I can't answer
8 that question. The way I recall the way this
9 happened was I gave this memo that we just discussed,
10 the May 6th memo, to Nancy and Beverly, and Nancy
11 replied back to me in written memo. And after I got
12 Nancy's memo, I went to Beverly's office and talked
13 to her about it. That's the way I recall what
14 happened after that.

15 Q I'm going to show you what's marked for
16 identification as Exhibit 5 000290. Do you recall
17 this note?

18 A Yes. This is a reply note from Nancy
19 Jones, the chief examiner, to my May 6th memo.

20 Q And this would be Nancy Jones's
21 handwriting?

22 A Yes.

1 Q And these are -- there's some handwriting
2 at the top that says "Bradley -- please review in
3 draft response to Hillary." Do you know whose
4 handwriting that is?

5 A That's Beverly's.

6 Q That's her handwriting; correct?

7 A Uh-huh --

8 MR. COLE: Does it say Bradley or Brady?

9 THE WITNESS: Brady, the staff attorney.

10 She had given it to Bill Brady.

11 BY MR. GICALE:

12 Q That's Beverly Bassett's note on top which
13 states "please review in draft response to Hillary."
14 Then the initials right under that, those are
15 Nancy's; is that correct?

16 A Right.

17 Q And the date 5/6/85, that's Nancy's
18 handwriting as well?

19 A Right.

20 Q The first paragraph states "I agree with
21 Charles that this must be permanent capital stock
22 payable in liquidation after savings accounts, I

1 believe it would be." And then 2, "I disagree with
2 Charles it has to be done under the wild card
3 statute. I believe the Rose Firm's analysis
4 regarding ordinary business corporations is
5 correct." And with respect to number 3, she says
6 "the problem not addressed by the Rose Firm is the
7 nonvoting portion. I don't know if capital notes
8 authorized under federal statute is nonvoting, but
9 the preferred stock is a similar debt equity
10 instrument." Now, was Nancy a lawyer at the time?

11 A No. Nancy is a CPA.

12 Q Do you know what she was referring to in
13 paragraph 3 beyond what she wrote there or can you
14 explain it?

15 A Let me read that again. I think I know
16 what she's doing. As I told you, the federals had
17 recently been allowed to issue preferred stock. And
18 the question was -- they had to meet certain
19 requirements in the issuance of the preferred stock
20 before that stock could be counted towards their
21 capital, and I think that's what she's trying to
22 address, whether she met all the -- whether they

1 would meet all the requirements set by the Federal
2 Home Loan Bank on the issuance of the preferred
3 stock. They had some specific things they had to
4 meet before they could issue and be counted as
5 capital.

6 Q What were those specific things?

7 A I mean, I don't know, but I think that's
8 what she's saying is that, you know, we need to --
9 there may have to be voting and nonvoting to count as
10 capital. In fact, we need to look into that. In her
11 fourth section she says that specifically, number 4
12 in her memo. We have to go through our registration
13 and the FSLIC who set the regulations for whether the
14 preferred stock would count towards their capital
15 requirements or net worth requirements.

16 Q So these were questions that she was
17 raising at that point in a note to you?

18 A Yeah.

19 Q After she wrote this note to you, what is
20 the next thing that you recall happening on this?

21 A I went in and talked to Beverly about it.

22 Q Was Nancy present?

1 A I don't remember specifically, but I don't
2 think so.

3 Q When you first got the note, was there this
4 note to Brady at the top?

5 A I mean, I can't remember when I got it.

6 Q If you remember. All right.

7 MR. COLE: Mr. Gicale, you referred to this
8 as a note to Mr. Brady, and it's not clear to me from
9 the face of the document that it was a note to him.
10 In fact, since it refers to him in the third person
11 in the first sentence, I would assume that it was a
12 note to someone else, perhaps Ms. Bassett. I just
13 want to be clear on the record what the
14 communications were here.

15 MR. GICALE: Well, there is a note at the
16 top that says "Brady -- please review in draft
17 response to Hillary." All I want to know is whether
18 or not that was on this note --

19 MR. COLE: I'm asking a different question
20 because when you asked Mr. Handley that question, you
21 said "in this note to you" and I didn't read this as
22 a note to --

1 MR. GICALE: I believe he testified it was
2 a note to him.

3 MR. COLE: That's my question because I
4 read it as a note, I presumed, to Ms. Bassett from
5 Ms. Jones. That's the question.

6 MR. GICALE: Let's clarify that.

7 BY MR. GICALE:

8 Q Is this a note to you or was it a note to
9 Beverly Bassett?

10 A I mean, the way I recall it is Nancy gave
11 it to us. It was addressed to Beverly, but she gave
12 us copies at the same time.

13 MR. COLE: That was my question.

14 BY MR. GICALE:

15 Q I agree with Mr. Cole. The first paragraph
16 says "I agree with Charles." So it sounds like she
17 was --

18 A Right, but she gave it to us at the same
19 time. It was addressed to Beverly, but I did get a
20 copy.

21 MR. COLE: I just wanted to clarify that.

22 BY MR. GICALE:

1 Q All I'm trying to determine was whether or
2 not you recall --

3 A And I don't know how that note to Mr. Brady
4 that Beverly put on there got on there. I don't
5 know.

6 Q In any event, after you received the note,
7 you went in to talk to Beverly Bassett about it;
8 correct?

9 A Right.

10 Q And do you recall whether or not Nancy was
11 present or whether or not you had a conversation --

12 A I don't really recall, but I don't think
13 she was because Nancy -- as I recall, Nancy's opinion
14 is stated here, and we already had it.

15 Q Did you talk to Nancy about her opinion
16 after you saw the note?

17 A Right, and as I recall, I generally agreed
18 with her, so I didn't think Nancy had to be in there,
19 if there's no conflict about her opinion. That's the
20 reason she was in when I went in and talked to
21 Beverly.

22 Q Do you know -- did Nancy tell you why she

1 disagreed with you about the use of the wild card
2 statute?

3 A I mean, I think what she states in there is
4 that she agrees with the Rose Law Firm. That's the
5 best they could do on it and the wild card statute
6 wouldn't be that. I think that's what she says in
7 her memo.

8 Q Did she say anything more to you about it
9 in her conversation?

10 A No, I think it's pretty clear stated
11 there. This is a conversation that happened over 10
12 years ago.

13 Q I understand. So now, after you received
14 the note, after you've had the conversation with
15 Nancy, you go in to see Beverly Bassett and what
16 happens?

17 A We discussed it and she told me she agreed
18 with Nancy and they could do it under the -- they
19 could do it under the business corporation code
20 statute as proposed by that.

21 Q Now, Beverly Bassett is and was a lawyer;
22 right?

1 A That's right.

2 Q In that conversation, did you discuss the
3 inconsistency between the provisional allowing for
4 permanent capital stock and how that would affect
5 depositors and preferred stock?

6 A No. I don't think we discussed the
7 conflict on that because she was an attorney. That's
8 what I asked in my memo, would be for an attorney to
9 address that issue and she was an attorney. She
10 addressed it.

11 Q Now, earlier when you wrote a memo to her
12 of the same date, May 6th, you had suggested that one
13 of your attorneys should review the matter. By the
14 time you went in to see Beverly Bassett, had she had
15 Mr. Brady review it or did that come later?

16 A It didn't come up. I don't recall ever
17 discussing that. I mean, I remember I was happy --
18 she's an attorney, and she was the commissioner, and
19 that was her position.

20 Q So her position was basically she had your
21 note to her, and she had this note from Nancy. You
22 discussed both notes, and she said she agreed with

1 Nancy?

2 A Right.

3 MR. COLE: And presumably, she had the
4 April 30, 1985 letter from the Rose Law Firm.

5 THE WITNESS: She did.

6 BY MR. GICALE:

7 Q Earlier, I believe you testified that she
8 did refer it to Brady to review.

9 A That's right.

10 MR. COLE: Do you have an independent
11 recollection of that, or are you basing that solely
12 on what you read?

13 THE WITNESS: On this note.

14 MR. COLE: Let's try to distinguish between
15 what you recall and what you're reading from a
16 document for our record.

17 BY MR. GICALE:

18 Q Do you recall whether or not she referred
19 it to Mr. Brady?

20 A I can't remember. I think at the meeting
21 she told me she had.

22 Q And did she tell you what Mr. Brady's

1 position was on that?

2 A I don't recall that she did.

3 Q Did you talk to Mr. Brady about it?

4 A No.

5 Q How many attorneys were working in your
6 section at that time?

7 A Well, we probably had four attorneys
8 working for the whole department. I mean, everybody
9 kind of did everything. We had four attorneys
10 available.

11 Q What was Mr. Brady's area of expertise or
12 responsibility?

13 A He was a staff attorney that handled all
14 legal matters regarding all the acts that we did. It
15 was just a staff attorney that handled any legal
16 questions or opinions, as I recall.

17 Q So you don't recall talking to him about
18 this?

19 A No.

20 Q And you don't recall talking to Beverly
21 Bassett about his review of this?

22 A No, because Beverly is an attorney. She

1 was the commissioner.

2 Q Did you discuss the risk to depositors of
3 issuing preferred stock like this?

4 A No.

5 Q Was that a concern?

6 A The risk to the depositor for issuing -- I
7 didn't think there would be a risk to the depositors.

8 Q Well --

9 A There would only be half depositors. I
10 don't think it would hurt the depositors. It would
11 be a benefit to issue the stock. It would put more
12 capital in there and make the institution more
13 solvent, more steady. It wouldn't hurt the
14 depositor. It would help the depositor, in my
15 opinion.

16 Q Wouldn't preferred stockholders have
17 priority, more priority than permanent
18 stockholders --

19 A That's not the depositors --

20 MR. COLE: I don't want to get into a legal
21 debate but there's a big difference between
22 depositors and stockholders.

1 THE WITNESS: Depositors and stockholders,
2 they're two different classes, distinct people.

3 MR. COLE: And just to be clear for the
4 record, Mr. Handley, there's nothing in the statutes
5 that we have been looking at that would indicate any
6 risk to depositors arising solely out of the issuance
7 of preferred stock, which I think was suggested in
8 Mr. Gicale's question.

9 THE WITNESS: No, and as I said, it would
10 benefit the depositors. It would make the
11 institution more stable and a form issuing --

12 BY MR. GICALE:

13 Q Again, referring to the section with
14 respect to permanent stock, it says "permanent stock,
15 when issued, may not be retired or withdrawn except
16 as provided in the section until all liabilities of
17 the association shall have been satisfied in full
18 including withdrawal and value of all savings
19 accounts."

20 A That's right. The depositors would come
21 before this.

22 MR. COLE: The issuance of preferred stock

1 as a question would not affect the fact that the
2 depositors would still come first in preference
3 before permanent capital stock.

4 THE WITNESS: They wouldn't be hurt by
5 this. It would help. And that's the whole -- I
6 mean, I was for doing it. It's just whether they
7 could do it or not. One of our positions, we were
8 trying to get capital in this association and this is
9 one way to do it.

10 BY MR. GICALE:

11 Q When the letter referred to preferred stock
12 which would have preference as to dividends and
13 amounts paid in liquidation --

14 A That's a stock hold. I don't think you
15 understand the difference between stockholders and
16 depositors.

17 Q Explain what you meant.

18 A Depositors are the people who put money in
19 the insured savings accounts and CDs. Stockholders
20 are those who put capital in there and take a risk by
21 the stock whether they turn a profit or not and they
22 are not insured by the FSLIC.

1 Q When this refers to amounts in liquidation,
2 what did you believe that refers to?

3 A Stockholders who are at risk, who are not
4 insured.

5 MR. COLE: Can we go off the record for a
6 minute.

7 (Discussion off the record.)

8 BY MR. GICALE:

9 Q Do you recall -- this is May 6th. The
10 next -- do you recall having any further
11 conversations with Beverly Bassett or Nancy Jones
12 about this?

13 A No.

14 Q What's the next thing you recall occurring?

15 A Getting a copy of letter Beverly sent to
16 the Rose Law Firm concurring with the opinion raised
17 in the April 30 letter.

18 Q I'm going to show you what's marked for
19 identification as 5000288, a copy of a letter dated
20 May 14, 1985, although this appears to be a draft,
21 and it's to Hillary Rodham Clinton regarding
22 authorization issuance of class of preferred stock.

1 Now, again, this is not on securities
2 department stationery and appears to be a draft. Did
3 you see this in draft form and is this the letter
4 you're referring to?

5 A I've never seen this draft.

6 MR. COLE: Do you recognize the handwriting
7 in the upper right corner?

8 THE WITNESS: Yes.

9 BY MR. GICALE:

10 Q Whose is it?

11 A That is mine, so I guess I did see it.

12 Q Were you requested to draft the letter for
13 Beverly Bassett?

14 A No, I didn't draft it.

15 Q Did she give it to you to review before it
16 went on securities department stationery?

17 A No. I got it after she had issued it, but
18 this is the way -- this is really not a draft. We
19 don't put it on a letterhead. This is our file copy.

20 MR. COLE: So the practice in your office
21 is even though a letter may go out of the office
22 signed, the internal copies won't bear the letterhead

1 or the signature?

2 THE WITNESS: Right.

3 MR. COLE: I would note for the record this
4 is not marked "draft." So your interpretation is
5 that it's a copy -- essentially a copy of the final
6 letter?

7 THE WITNESS: Yes.

8 MR. COLE: Thank you.

9 BY MR. GICALE:

10 Q I'm going to show you what's marked for
11 identification number 10786. The text appears the
12 same, May 14, 1985, a letter to Hillary Rodham
13 regarding an issuance of a class of preferred stock.
14 This is signed by Beverly Bassett. Did you see this
15 letter signed -- this is a signed copy it, and I'll
16 represent to you this is signed and there are some
17 notations on it.

18 A This is not our copy. This didn't come
19 from our files.

20 Q Did you see a signed version of this letter
21 before it went out?

22 A No, as I told you, it's our policy to keep

1 an unsigned copy which is the same as this one.

2 Q I know what your policy is. Did you see a
3 signed copy before it went out?

4 A No.

5 MR. COLE: Was that unusual, just for the
6 record?

7 THE WITNESS: No. That's standard
8 operating procedure.

9 BY MR. GICALE:

10 Q And you didn't have anything to do with
11 drawing it up?

12 A No.

13 Q You did not review it before it went out?

14 A No. I just got the copy after she made it
15 to put in the file.

16 Q Do you recall how soon after you wrote the
17 note on May 6, 1985 to Beverly Bassett and Nancy that
18 you discussed it with Beverly Bassett?

19 A It may have been that day or within one or
20 two days.

21 Q Do you know --

22 A Again, that's 10 years ago.

1 Q I understand. There's a period of time
2 about a little over a week and a day that it took to
3 write the letter. Is there anything that occurred
4 during that time period that you can recall with
5 respect to the analysis of the legal opinion?

6 A No, as I told you -- as I recall, the
7 matter was settled with Beverly and it was either
8 that she would -- she would draft the letter or the
9 attorney would draft the letter and she would ask me
10 to draft a letter, but as I said -- as I recall, she
11 gave me a copy of the letter she sent and that's what
12 I got after the meeting with Beverly. I mean, I
13 would have drafted the letter if she asked me to, but
14 she didn't ask me to.

15 MR. COLE: Mr. Gicale, I don't want to
16 obviously interfere with your examination, but I do
17 have an earlier document that came from the documents
18 that have been produced to the committee that appears
19 to be Mr. Handley's handwriting. I'm not sure if
20 you're aware of it.

21 MR. GICALE: Can we go off the record for a
22 second.

1 (Discussion off the record.)

2 BY MR. GICALE:

3 Q Showing you what's marked for
4 identification as a document marked as RS 000700
5 through 702, and it is a document dated April 3,
6 1984. There's a slash through it and there's a 5 in
7 the right-hand corner. It's from Charles to
8 Beverly. Can you identify this for us.

9 A It's a copy of a memo dated April 3, 1985
10 to Beverly from me.

11 Q That's in your handwriting; is that
12 correct?

13 A Yes.

14 Q Can you just take a moment to review that
15 and tell us how that memo came about.

16 (Witness reviewed document.)

17 A This memo -- to paraphrase a conversation
18 that I had with the -- with Mr. Fitzhugh who worked
19 for Madison Guaranty Savings & Loan regarding the our
20 conversation of -- regarding his association issuing
21 preferred stock.

22 Q When did you have that conversation with

1 Mr. Fitzhugh, that same day?

2 A Excuse me, I didn't have it. One of my
3 employees did. Rick Weaver had the conversation and
4 Rick told me about it. But this said on the same day
5 of the memo, April 3, 1985.

6 Q Fitzhugh had called your employee; correct?

7 A Right.

8 Q And asked to do what?

9 A He asked what was needed -- he wanted to
10 issue preferred stock and what forms was necessary to
11 be filed to do so.

12 Q Was this the earlier Fitzhugh conversation
13 that you referenced in your testimony?

14 A Yes.

15 Q So it was not directed to you. It was with
16 one of your employees; correct?

17 A Right.

18 Q And were there any other savings and loans
19 that had issued preferred stock in Arkansas at the
20 time?

21 A No state charters.

22 Q This would have been the first; correct?

1 A Yes.

2 Q Was there a discussion about that with
3 Mr. Fitzhugh?

4 A He told an employee that he had heard that
5 some state charters had, and we told him that they
6 hadn't.

7 Q At the time you told -- this says "I
8 advised Mr. Fitzhugh that we" --

9 A I think the way it went, he phoned Rick.
10 Rick asked me to phone him back and I did phone
11 Fitzhugh back.

12 Q You actually did have a conversation with
13 Fitzhugh?

14 A Yes, after Rick had told me to phone him
15 back.

16 Q Now, in the second paragraph of the first
17 page, you say that "I reviewed the S&L statutes and
18 phoned Mr. Fitzhugh back and told him it was my
19 opinion that Arkansas statute annotated 67-803 and
20 67-1818 (see attached) only provides for the issuance
21 of permanent capital stock or common stock in a stock
22 association."

1 Now, did you talk about the wild card
2 statute at that point, or is that your reference
3 later on?

4 A I don't think it's mentioned in this. I
5 told him we'd be glad to listen to his opinion while
6 they could, and I think that's what the letter from
7 the Rose Law Firm came from.

8 Q But did you talk to him at all about the
9 wild card provision?

10 A I don't recall it, but the memo doesn't say
11 that.

12 Q When you later referred to Arkansas statute
13 annotated 67-181 -- and I can't see the last digit
14 and it says 67-1801 and 67-1832, what did those
15 sections deal with and why were you referring to?

16 A I don't have them memorized by heart, but I
17 would think that those statutes dealt with mentioning
18 capital stock.

19 Q So based on your review of these notes and
20 your recollection at this point, you don't recall
21 having a conversation with Mr. Fitzhugh about this
22 possibly fitting under the wild card statute?

1 A I don't recall that, but again, I don't
2 know what those statutes are.

3 MR. COLE: Just to read the next line, it
4 indicates "copies attached" in parentheses. Does
5 that indicate that you sent copies of those statutes
6 to Ms. Bassett with this memorandum?

7 THE WITNESS: Yes.

8 MR. COLE: I think it would be helpful to
9 identify, if we can, from the statute book that we
10 have here -- perhaps we could do this off the record
11 what the statutes are -- that were provided to
12 Ms. Bassett.

13 (Discussion off the record.)

14 BY MR. GICALE:

15 Q Now, again referring -- we've had some
16 discussion off the record with respect to your note
17 of April 3, 1985, and you cited some sections on the
18 first page of the second paragraph of the first page
19 and some sections on the last paragraph of the second
20 page. These were -- and at the time these were
21 dealing with the issuance of permanent stock; is that
22 correct?

1 A I believe the attachments I made there --
2 the statutes dealt with the issue of saying only
3 permanent capital stock.

4 Q But to be clear, you were not discussing
5 with Fitzhugh the possibility of this coming under
6 the Business Corporation Act or the wild card
7 statute, which you later suggested to Beverly Bassett
8 in May; correct?

9 A Correct.

10 Q Now, between the time you received this
11 call or the time you talked to Mr. Fitzhugh on April
12 3rd, 1985, and the time you received the letter dated
13 April 30, 1985 from the Rose Law Firm, did you have
14 any other conversations with either people from
15 Madison Guaranty Bank or the Rose Law Firm about this
16 request?

17 A No.

18 Q Did you do any other research into whether
19 or not this would be an appropriate request for the
20 securities commission to grant?

21 A No, not until I got the April 30th letter
22 from the Rose Law Firm.

1 Q Now, when you got the April 30th letter,
2 what made you begin to start thinking about the wild
3 card statute? Had you done some further research
4 into it?

5 A I just thought about it because that's a
6 pretty broad statute. They can do anything the
7 federals can do, and I do remember the feds -- as I
8 said, the feds had allowed federal associations to do
9 it. I just remembered that.

10 Q At that point, May 6th -- I'm sorry, April
11 30th when you got the letter, do you recall whether
12 someone else suggested to you that the wild card
13 statute might be appropriate?

14 A No one did.

15 Q Now, after seeing this letter go out or a
16 copy of this letter dated May 14, after seeing a copy
17 of the letter, did you have any other further
18 conversation with anyone from Madison Guaranty Bank
19 or Beverly Bassett or the Rose Law Firm about the
20 issuance of preferred stock by Madison Guaranty?

21 A We had a lot of conversations after that.

22 Q What was the next one that you recall?

1 A I can't remember the specific day.

2 Q What was the next conversation you recall
3 having after this letter was sent out by Beverly
4 Bassett -- let's go back to the letter for a minute.

5 The letter states, second paragraph -- and
6 is addressed "Dear Hillary" -- it states "'I agree
7 with your analysis and conclusion of the question
8 whether an Arkansas chartered savings and loan
9 association may under Arkansas law create, authorize
10 and issue a class of preferred stock." It further
11 goes on to say "Arkansas law expressly gives state
12 chartered associations all the powers given regular
13 business corporations under the Arkansas Business
14 Corporation Act including power to authorize and
15 issue preferred capital stock. Further, there is no
16 express prohibition against such action contained in
17 the Arkansas laws as govern building and loan and
18 savings and loan associations accordingly. As the
19 savings and loan supervisor, I concur in your opinion
20 that Madison's proposed capitalization plan is not
21 inconsistent with Arkansas law."

22 Now, did you agree with her statement in

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1 that letter?

2 A Uh-huh.

3 Q After that letter was sent out, what is the
4 next conversation you recall having about this
5 request for preferred stock?

6 A I can't remember specifics, but we had
7 several meetings and memos and concerns about what
8 amount of stock should be issued based upon the net
9 worth and the financial condition.

10 Q How soon after was there a request for
11 Madison -- for approval to engage in activities --
12 broker/dealer activities?

13 A I don't remember the specific dates, but I
14 recall pretty soon after the --

15 Q I'm going to show you what's marked for
16 identification as exhibit -- unfortunately, this is
17 in the 84 series, and there's no Bates number. It's
18 a letter dated May 14, 1985.

19 Off the record.

20 (Discussion off the record.)

21 BY MR. GICALE:

22 Q Showing you what's marked for

1 identification as Exhibit Number 84, a letter dated
2 May 14, 1985 to Charles Handley from Richard Massey
3 regarding Madison Guaranty Savings & Loan
4 Association. I'm also going to show you what's
5 marked for identification as Exhibit Number 5, 00070
6 through 81. And I believe this is attachment to that
7 letter. Can you identify those for us.

8 A This is a cover letter, an application
9 filed with the savings and loan board to have a
10 broker/dealer subsidiary.

11 Q This is the same date that the -- of the
12 letter we previously discussed to Hillary Rodham
13 Clinton regarding approval by Beverly Bassett of the
14 preferred stock request; correct?

15 A Yes.

16 Q Was there some simultaneous discussion with
17 respect to this broker/dealer request that you
18 recall?

19 A I can't remember when it occurred, but the
20 whole gist of it is that this association had very
21 low net worth. One meeting in the benchmark set by
22 the feds and throughout the whole deal we were trying

1 to get them to do things that increase their net
2 worth and their financial condition, and I think the
3 response was issued of the preferred stock which
4 would increase their capital. And another one of
5 their things they proposed to do and improve their
6 net worth and financial condition was to have a
7 broker/dealer which would supposedly generate more
8 net profit, which would increase their net worth and
9 maybe a system setting their preferred stock plan.

10 I can't remember when we discussed those
11 issues specifically, but that was -- this was their
12 response into us to staying on their case about
13 having bad net worth.

14 Q Well, was the request for preferred stock a
15 response to you being on their case for their net
16 worth problems?

17 A Yes, and the Federal Home Loan Bank. I
18 believe at this time the Federal Home Loan Bank had
19 entered into a supervisory agreement which
20 indicated -- because they had low net worth, and they
21 agreed to do certain things and take certain steps,
22 and I think that was in response to the Federal Home

1 Loan banks, supervisory agreement.

2 Q The supervisory agreement was 1984; is that
3 correct?

4 A I don't have it. I don't remember.

5 Q Do you remember reviewing it?

6 A Yes.

7 Q I'm going to show you what's marked for
8 identification as Exhibit 99000269 through 99000290.
9 Is this a copy of a "Report of special limited
10 examination." It has an examination date of January
11 20, 1984 and this is with respect to Madison Guaranty
12 Savings & Loan Association.

13 Do you recall receiving and reviewing that
14 examination report?

15 A Yes.

16 Q Now, did your responsibilities include at
17 that time reviewing reports from institutions like
18 Madison Guaranty related to Federal Home Loan Bank
19 Board examinations?

20 A Yes.

21 Q How involved were you in that process in
22 general?

1 A Very involved.

2 Q But what were your duties? Did you go to
3 banks and do actual examinations? Did you review
4 reports? What exactly did you do?

5 A I reviewed the files made by savings and
6 loan associations and the Federal Home Loan Bank in
7 our office which would include financial reports and
8 examination reports.

9 Q Did you report any examinations yourself?

10 A Not on Madison. I had in the past.

11 Q Did you have examiners in the office at the
12 time that were performing examinations?

13 A No, not at the time.

14 Q In 1984 and 1985, was the commission
15 responsible for examining savings and loans, state
16 savings and loans?

17 A Yes, or we could accept our Federal Home
18 Loan Bank exams. Our act provides that and that's
19 what we did.

20 Q In '84 and '85, while you were responsible
21 for exams, you could also accept the results of the
22 Federal Home Loan Bank Board's exams and that's what

1 you did; is that correct?

2 A Not accept. The results we could actually
3 accept the exam reports in lieu of ours.

4 Q The reports?

5 A Yes.

6 Q And that's what you did throughout '84, '85
7 and '86?

8 A And sometime prior to that.

9 Q How many institutions were you responsible
10 for during '84 and '85 and '86, if you recall?

11 A I don't remember specifically. I mean, a
12 guess would be 14, 15.

13 Q Were you the only one reviewing these
14 reports, or was there someone else reviewing them?

15 A No. I was the only one primarily
16 responsible for reviewing them. I'd make
17 recommendations of my findings to Nancy and Beverly.

18 Q How frequently would you receive these
19 reports?

20 A I don't know which one you're talking
21 about.

22 Q What kinds of reports were you receiving to

1 monitor these banks in '84, '85 and '86?

2 A Quarterly reports prepared by the
3 association, audited financial statements, which was
4 prepared by the independent CPAs for the association
5 and the examination reports, which I believe at the
6 time from the Federal Home Loan Bank had to be done
7 within 18 months, and they would do them sooner on
8 the bad ones.

9 Q How frequently would you get the audited
10 financial statements?

11 A Annually.

12 MR. COLE: By "bad ones," do you mean those
13 experiencing some level of financial difficulty?

14 THE WITNESS: Yes.

15 BY MR. GICALE:

16 Q So three kinds of reports, a quarterly
17 report and an annual financial statement -- an
18 audited financial statement?

19 A Uh-huh.

20 Q And then any Federal Home Loan Bank Board
21 examination reports?

22 A Uh-huh.

1 Q When this January 20th, '84 examination
2 occurred, you received a copy of this report. And
3 this is a part of your normal duties; you reviewed
4 it; correct?

5 A Uh-huh.

6 Q And I'm going to direct your attention to
7 page -- the third page of this report document 271
8 under the double lines where it says "report
9 summary." There are three paragraphs of
10 conclusions. The first one states "the viability of
11 the institution is jeopardized through the
12 institution's current investment and lending
13 practices in real estate development projects."

14 Second paragraph states "there is a
15 concentration of assets and loans in land and
16 development type properties. Prudent investment
17 practices have not been utilized in development
18 projects and poor loan underwriting is characteristic
19 on loans originated. These long-term investments and
20 loans have been funded with short-term broker
21 deposits."

22 Then the third paragraph reads "substantial

1 profits from the service corporation, the sales of
2 real estate owned have been improperly recognized.
3 Such profits were recognized as a result of contract
4 sales and submarket interest rates. Correcting
5 interests will adversely affect net worth and result
6 in an insolvent position."

7 Now, the examiner in charge at the time was
8 Sarah Worsham; is that correct?

9 A That's who signed it, yes.

10 Q She later assumed a position at the bank;
11 is that correct?

12 A That's right.

13 Q Her name was Sarah Hawkins subsequent to
14 that; correct?

15 A Correct.

16 Q So as of this date, you were aware of the
17 fact that if these entries were corrected, they could
18 adversely affect net worth and result in an insolvent
19 bank?

20 A That's what the exam report said, but the
21 associations in reply to this filed a response that
22 disagreed with that and the Federal Home Loan Bank

1 agreed that they didn't have to make those entries
2 based on the response, so they were never insolvent.

3 Q Now, I'm going to show you what's marked
4 for identification as Exhibit 99001040 through 1048.
5 This is a supervisory agreement entered into with
6 Madison Guaranty, and this is a supervisory agreement
7 that you earlier referred to; is that correct?

8 MR. FROMEWICK: Can we go off the record
9 for a second?

10 (Discussion off the record.)

11 THE WITNESS: Yes.

12 BY MR. GICALE:

13 Q That's the supervisory agreement that you
14 referred to earlier?

15 A Uh-huh.

16 Q Now, the first paragraph under the
17 "therefore" section says that "Madison will comply
18 with the minimum net worth requirements of insurance
19 regulation 563.13, as currently set forth or as may
20 be promulgated in the future"; correct?

21 A Uh-huh.

22 Q And the date of this agreement is August 6,

1 1984, or at least it's signed August 6, 1984; is that
2 correct?

3 A I believe that's a final signature. I
4 believe it's July 19, 1984 signed by the association,
5 accepted by the FSLIC in August.

6 Q In August of '84, okay. Now, net worth was
7 a problem in July and August of 1984; correct?

8 A And prior to that.

9 Q And prior to that. And continued to be a
10 problem for how long?

11 A Forever, as long as the association
12 existed.

13 Q You continued, then, to receive quarterly
14 reports and audited financial statements from the
15 bank from Madison Guaranty after this examination?

16 A Yes.

17 Q And what did they show the condition of the
18 bank to be at the end of 1984, do you recall?

19 A I'm sure they didn't meet the minimum net
20 worth in this statement, 3 percent. It's a benchmark
21 requirement.

22 Q And that 3 percent was a federal

1 requirement; correct?

2 A Yes.

3 Q Now, what remedies did you have available
4 at the securities commission and did the Federal Home
5 Loan Bank Board have when a banking institution like
6 Madison Guaranty did not meet these requirements?

7 MR. COLE: I'm sorry. Are you asking for
8 both the states and the federals or do you want to
9 split that up?

10 BY MR. GICALE:

11 Q I'll split it up. What remedies did you
12 have available when a bank like Madison Guaranty or
13 Madison Guaranty did not meet the net worth
14 requirement?

15 A Of the Federal Home Loan Bank?

16 Q Yes.

17 A I don't think we'd have any remedy. The
18 only remedy we'd have, and there are statutes
19 received by our conservator if the association was
20 deemed grossly -- operating in a gross and unsafe and
21 unsound manner or the capital -- or become insolvent.

22 Q Now, what would your definition be of a

1 bank that's operating in an unsafe and unsound
2 manner?

3 A In my mind, it would be becoming insolvent
4 or the capital would be impaired.

5 Q Well, did you believe that Madison's
6 capital was being impaired? I mean, starting in
7 1984, where there was an examination that said at
8 first that they might be insolvent and having
9 problems with net worth --

10 A They never were insolvent. We never had
11 any financial proof that they were insolvent.

12 Q You had proof in July and August of 1986
13 that at a minimum, they had problems with their
14 minimum net worth; correct?

15 A They were -- that there were a lot of
16 associations that had low net worth and didn't meet
17 the benchmark requirements, but they weren't
18 insolvent.

19 Q But I'm talking about this association.
20 You had evidence that this association had some
21 minimum net worth problems as early as July and
22 August 1984?

1 A Right. And I think the Federal Home Loan
2 Bank took necessary steps to try and correct that.
3 They entered into a supervisory agreement. We tried
4 to get them to issue preferred stock and increase
5 their capital.

6 MR. COLE: Just to make sure our record is
7 correct here, Mr. Handley, I understood your answer
8 to be -- when you stated the test for obtaining a
9 receivership under Arkansas law under your statute,
10 that would be a test that would have to be satisfied
11 by your department in court to convince a court to
12 appoint a receiver. That's not something you had the
13 power to do. You would have to go to the court and
14 request that a court do that?

15 THE WITNESS: That's right.

16 MR. COLE: And I think Mr. Gicale, when he
17 asked you a follow-up question, asked it in a manner
18 that indicated that that was something that your
19 agency had the power to do, and as I understood your
20 answer to his question, you would have to go to a
21 court and make a showing and request a court to do
22 that.

1 THE WITNESS: Seek appointment from a
2 receiver.

3 MR. COLE: There's some pretty technical
4 legal concepts involved here and I think we need to
5 be as accurate as we can be.

6 BY MR. GICALE:

7 Q Did you believe based on the examination
8 report that you had received in '84 and the quarterly
9 reports that you received in '84 that Madison
10 Guaranty was operating in an unsafe and unsound
11 manner?

12 A No, not grossly unsafe and unsound.

13 Q Does the statute require that it be grossly
14 unsafe and unsound?

15 A I believe so.

16 MR. GICALE: Off the record.

17 (Discussion off the record.)

18 BY MR. GICALE:

19 Q Mr. Handley, at the time you received the
20 examination in 1984, there was a problem with net
21 worth. The examination also cited -- and I'm going
22 to refer to page 277 -- section 7 dealing with the

1 service corporation. Do you see that?

2 A Okay.

3 Q The second paragraph of section 7 relating
4 to the service corporation says that "in
5 contravention of sections VC, the investment had
6 exceeded the limit authorized by the rules and
7 regulations of the Arkansas Savings and Loan Board.
8 The outstanding investment on December 31, 1983 was
9 \$2,386,590 or 14.1 percent of the association
10 assets. Arkansas statutes limits the investment to 6
11 percent of assets."

12 Do you recall being aware of that at the
13 time?

14 A Yes.

15 Q So there was a problem with net worth and
16 there was a problem with the investment in the
17 service corporation; correct?

18 A Uh-huh.

19 Q What remedies did you have available as a
20 state agency to correct those problems?

21 A Well, what you do is you ask them to
22 address what they propose to do to correct those

1 things, like enter into this supervisory agreement.
2 The ultimate thing we could do if they become
3 insolvent or acted completely illegally or their
4 capital is totally impaired, we could seek an action
5 in state court to get a receiver or conservator
6 appointed.

7 Q Short of having a receiver appointed, were
8 there any other remedies available to you at that
9 time?

10 A Not that I know of.

11 Q Could you, for instance, ask the Federal
12 Home Loan Bank Board -- strike that.

13 Could you ask to have the officers removed
14 as you later did in 1986?

15 A Not under our statutes. That was the
16 Federal Home Loan Bank Board statutes.

17 Q Could you request the Federal Home Loan
18 Bank Board to have the officers removed?

19 A We could request them to do almost
20 anything, yes, under their statute.

21 Q And that was within their power; correct?

22 A Yes.

1 Q Did you ask them to do that in 1984?

2 A No.

3 Q Why not?

4 A Because the Federal Home Loan Bank chose to
5 enter into this supervisory agreement where they
6 agreed to correct all these things.

7 Q Did you -- did the Federal Home Loan Bank
8 Board consult with you, your agency when they entered
9 into this agreement with Madison Guaranty in 1984?

10 A As I recall, they talked to Beverly about
11 it.

12 Q This was entered in July or August of '84.
13 Beverly wasn't there at that point, was she?

14 A I can't remember when she came. Whoever
15 the commissioner was.

16 Q I believe you testified earlier that Lee
17 Thalheimer was there until September of 1984; is that
18 correct?

19 A I think so. I'm sure the Federal Home Loan
20 Bank talked to Beverly, and we have a copy of it. I
21 think we have an unsigned copy of it, so they made it
22 available. I don't recall talking to them about it,

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1 other than getting a copy of the proposed agreement.
2 And I'm sure Lee talked to the Federal Home Loan Bank
3 about it.

4 Q Lee Thalheimer?

5 A Uh-huh, but you'll have to ask him that.

6 Q The agreement merely requires that they
7 will "comply with the minimum net worth requirements
8 as currently set forth or as may be promulgated in
9 the future."

10 A I think there's a whole bunch of the
11 things --

12 Q With respect to net worth, that is the
13 requirement of net worth.

14 A Right.

15 Q Was there a date within which they were
16 supposed to comply with this requirement?

17 A I'm not familiar with the whole agreement,
18 but it speaks for itself.

19 MR. COLE: This was not an agreement
20 between your department and Madison Guaranty;
21 correct, Mr. Handley?

22 THE WITNESS: No. We were just a -- I

1 think we got a draft copy of it, and we agreed with
2 what they were doing, as I recall, and it was entered
3 into.

4 BY MR. GICALE:

5 Q At any point in time after reviewing this
6 agreement, did you have any disagreement with how the
7 Federal Home Loan Bank Board was attempting to
8 resolve this problem?

9 A With the Federal Home Loan Bank Board? No.

10 Q You felt that their course of conduct was
11 appropriate at that point in time?

12 A Right. We got copies of and was following
13 it and we also asked the association to improve their
14 capital. There's letters in there to do it also.

15 Q Now, what conversations do you recall --
16 after the supervisory agreement, what conversations
17 do you recall having with either the Federal Home
18 Loan Bank Board or Madison Guaranty later on in '84
19 and '85 prior to your getting this request for the
20 preferred stock?

21 A I can't remember specifically. I think
22 there's some letters in there and we asked them --

1 they weren't meeting the net worth requirements,
2 which I think at the time was 3 percent, and I think
3 there's some letters in there advising that, and we
4 asked them what actions they were going to take. And
5 as I recall, the preferred stock issued and the
6 broker/dealer was what they proposed to improve their
7 net worth.

8 Q And how did you determine that they
9 continued not to meet the net worth requirements,
10 through your review of the quarterly annual reports;
11 is that correct?

12 A Right, and examination reports.

13 Q But the examination report you already
14 had. That was done as of January '84?

15 A Yes, but they did one in '86.

16 Q In '86, but I'm talking leading up to the
17 time when they requested the preferred stock
18 approval, what kinds of reports were you reviewing to
19 determine --

20 A It would be the quarterly reports and the
21 audit reports.

22 Q And as a result of reviewing those reports

1 and finding that they were not meeting the net worth
2 requirements, your department sent them letters
3 asking them what they were going to do to meet it?

4 A And that they weren't along with the
5 Federal Home Loan Bank. There are several letters in
6 the files. I'm sure you have copies of them that
7 state they weren't meeting the requirements.

8 MR. GICALE: Off the record.

9 (Discussion off the record.)

10 BY MR. GICALE:

11 Q Do you recall sending some letters asking
12 them what they're going to do about their net worth?

13 A Yes.

14 Q These would have gone to Madison Guaranty?

15 A Uh-huh.

16 Q And do you recall discussions with anybody
17 from the Federal Home Loan Bank Board during this
18 time period with respect to this net worth problem?

19 A No. That was generally done between the
20 commissioners. We talked to the people.

21 Q Do you know in '84 or '85 who the primary
22 contact at the Federal Home Loan Bank Board was with

1 respect to Madison Guaranty?

2 A I can't remember the name. They would be
3 on the letters, and Skip Lohmiller was one. There
4 were like three or four contact people, but they were
5 the people that's on the memos that we have in the
6 letters from the Federal Home Loan Bank Board.

7 Q We do not have all of your memos.

8 What about John Mitchell?

9 A Yes.

10 Q Was he one of the contacts?

11 A Yes.

12 Q Do you recall James Smith?

13 A Yes.

14 Q Was he another one of the contacts you
15 referred to?

16 A Uh-huh.

17 Q What about a Lou Roy?

18 A I don't remember his name. I think the
19 policy of the Federal Home Loan Bank is they would
20 assign people a specific savings and loan to be
21 supervisory agents over, and those people changed
22 some, the case load like Madison, whoever specific

1 people assigned to it and that's who you'd deal with.

2 Q In either the fall and winter of '84 or
3 through the end of '84 and beginning of '85, do you
4 remember specifically who you dealt with prior to
5 this preferred stock request?

6 A I don't remember. It's too long. It would
7 be the people that's on the memos and letters in our
8 files that you have copies of.

9 Q Were these people from the Federal Home
10 Loan Bank Board, were they also requesting that the
11 bank -- suggesting to the bank that they attempt to
12 issue the preferred stock or get preferred stock
13 approval from your agency?

14 A I don't recall that they did that
15 specifically, but there's letters in general that
16 asked them what they do, and they weren't complying
17 with the net capital requirements of this agreement
18 in general.

19 Q How involved did you get in reviewing the
20 investments that Madison Guaranty had in real
21 estate? For example, Campobello, how much detail did
22 you --

1 A They had to file an application for our
2 approval to do that, and I reviewed the application,
3 made recommendations.

4 Q When did they first file that application
5 with your agency?

6 A I don't recall the specific date, but you
7 have a copy of the application.

8 Q Do you recall whether the first request for
9 Campobello was in '84?

10 A Lee is the one that reapproved it so it had
11 to be in '84. Lee was the one that I dealt with and
12 approved that application.

13 MR. COLE: Lee Thalheimer?

14 THE WITNESS: Yes.

15 BY MR. GICALE:

16 Q So when you finally received this request
17 from Mr. Fitzhugh or this inquiry from Fitzhugh, this
18 was just a continuation of conversations you had had
19 with the people at Madison Guaranty with respect to
20 their net worth position, or you viewed it as that;
21 correct?

22 A I don't know if it's conversations. It

1 would be letters and correspondence from myself and
2 the Federal Home Loan Bank regarding what they're
3 going to do to improve their net worth requirements.

4 Q Was the April 3rd conversation that you had
5 with Fitzhugh the first time that they raised the
6 issue of preferred stock with you?

7 A Yes.

8 Q Do you recall anyone ever recommending to
9 Beverly Bassett that she seek an opinion from the
10 attorney general with respect to whether or not the
11 preferred stock request should be approved?

12 A No.

13 Q Now, you started to testify earlier about
14 the broker/dealer request that I showed to you. Now,
15 did this come up -- strike that.

16 I asked you whether or not -- the dates are
17 May 14, 1985 and the same date -- the date is May 14,
18 1985, which is the same date as the letter to Hillary
19 Clinton with respect to approval of the preferred
20 stock matter.

21 Do you recall this broker/dealer issue
22 being discussed in the months leading up to May 14,

1 1985?

2 A I can't remember specific dates, but I
3 think when they filed the preferred stock issue, I
4 had a meeting with Massey and maybe two meetings with
5 Massey and Latham regarding debt application, and it
6 come up -- we asked them, I think, in the question
7 who they were going to sell it who and how they were
8 going to sell the preferred stock and I think a part
9 of that, they said they planned to form a
10 broker/dealer, which was a system in selling that and
11 also, they intended to operate their broker/dealer
12 for a profit center.

13 That meeting would have occurred sometime
14 between the April 30 letter and then filing this.

15 Q Filing this, the May 14th request?

16 A Right.

17 Q So they were viewing this broker/dealer as
18 a means to generate income selling other kinds of
19 securities in addition to their preferred stock?

20 A And to help them sell their preferred
21 stock, yes.

22 Q Did you have any concerns about them doing

1 that?

2 A Yes.

3 Q What were your concerns?

4 A On whether they were meeting their net
5 worth requirements and because, as I recall, one of
6 the requirements was the Federal Home Loan Bank and
7 maybe pursuant to the agreement that they were later
8 into is they had to meet the benchmark before they
9 could do any more indirect investments, I mean,
10 wholly owned service corporation, which this one
11 would be.

12 Q The broker/dealer would be another service
13 corporation?

14 A Yes.

15 MR. COLE: And when you say they had to
16 meet the benchmark, what do you mean by that?

17 THE WITNESS: The 3 percent --

18 BY MR. GICALE:

19 Q The 3 percent net worth?

20 A Right.

21 MR. COLE: Before they could engage in
22 those activities --

1 THE WITNESS: Yes.

2 MR. COLE: -- through issuance of the
3 preferred stock or otherwise they would have to
4 increase their capital?

5 THE WITNESS: Yes, and we conditioned the
6 approval of this broker/dealer on that fact.

7 BY MR. GICALE:

8 Q I'm going to show you what's marked for
9 identification as Exhibit 03583. Actually there is a
10 prefix to that, RLF 2. It's a memo dated May 22,
11 1985 from Charles Handley to Beverly Bassett and
12 Nancy Jones regarding application by Madison Guaranty
13 Savings & Loan to form a second tier wholly owned
14 service corporation which would engage in securities
15 broker/dealer business.

16 That's your memo to Beverly Bassett on that
17 date; is that correct?

18 A Yes.

19 Q Referring to item 6 in this memo, you had
20 requested -- or you suggested to Beverly Bassett that
21 you needed current financial statements on the wholly
22 owned service corporation. You further requested in

1 paragraph 7 that you needed "detailed financial
2 statements to determine if the total aggregate
3 outstanding investment capital stock obligations or
4 other securities of service corporations and
5 subsidiaries in joint ventures thereof does or would
6 not exceed the 6 percent of the association assets
7 and limitation which is set forth in rule VC";
8 correct?

9 A Uh-huh.

10 Q And you further informed her in this memo
11 in paragraph 8 "based on the net worth and
12 liabilities as reflected in the association's
13 December 31, 1984 audited financial statement, it
14 appears that the association does not meet the
15 minimum net worth requirements of section 563.13 of
16 the Federal Home Loan Bank's regulations."

17 A Right.

18 Q And that "the association should file a
19 copy of their March 31, 1985 quarterly minimum net
20 worth calculation and a plan to meet the minimum net
21 worth requirements if the calculation reflects a
22 shortage." Correct?

1 A Yes.

2 Q On some date subsequent, it appears that
3 you received a copy of a supervisory bulletin from
4 the Federal Home Loan Bank of Dallas. I'm going to
5 show you a copy of this. It's marked for
6 identification as 500083 through 500097, although I
7 note the last page is marked 500054. So apparently
8 it's taken out of context, but this is the way we
9 received it.

10 Do you recall receiving a copy of this
11 supervisory bulletin dated June 10, 1985?

12 A Yes, we retain copies of all the Federal
13 Home Loan banks supervisory bulletins.

14 Q There's initials in the upper left-hand
15 side, BB. Is that for Beverly Bassett?

16 A Right.

17 Q NS is for?

18 A NJ, Nancy Jones.

19 Q SW --

20 A Sarah Weaver.

21 Q And then back to you, Charles Handley?

22 A Me.

1 Q So you received a copy of this and made
2 sure that they received copies of this as well; is
3 that correct?

4 A Uh-huh -- well, actually that means they
5 reviewed this copy and gave it back to me.

6 MR. COLE: You circulated it.

7 THE WITNESS: Uh-huh.

8 BY MR. GICALE:

9 Q Attached to it, at least the records we
10 received, is this Exhibit D, "Quarterly minimum net
11 worth calculations of Madison Guaranty Savings & Loan
12 Association." Did you circulate it with this
13 exhibit, do you recall?

14 A I mean, I don't recall. I'm sure I didn't.

15 MR. COLE: Was this produced from his
16 department's files in this order, or do we know?

17 THE WITNESS: It's Bates numbered --

18 THE WITNESS: This is not ours because the
19 memo is written to Massey, so it didn't come from our
20 files.

21 BY MR. GICALE:

22 Q You never received it?

1 A No, we never received it.

2 Q You're referencing the front page of a
3 memo. This is page 500088. It says to Rick Massey
4 from Sarah Hawkins.

5 A Right. That's not ours.

6 Q This is something you ever saw?

7 A No. It wouldn't have our stamp on it so
8 you didn't get this from me.

9 Q What were the regulatory consequences of
10 failure to meet net worth? And I'm going to refer
11 you specifically to the direct investment section
12 563.9.

13 A Well, I think the memo sets forth what they
14 were. They can take authorities away. That they
15 could do.

16 Q Well, specifically, that section 563.9-8,
17 and I'm referring to page 85 under "direct
18 investment" says "an insured institution can't make
19 direct investments in service corporations operating
20 subsidiary equity securities or real estate without
21 prior written approval of the principal supervisory
22 agent"; correct?

1 A Right.

2 MR. COLE: And these are the federal
3 regulations you're asking him to interpret?

4 THE WITNESS: Right.

5 BY MR. GICALE:

6 Q I understand. But was this the rule you
7 were referring to with respect to the broker/dealer
8 corporation?

9 A Yes, because it would be a direct
10 investment.

11 Q So you felt that they could not engage in
12 this --

13 A Until they met the net worth --

14 Q The 3 percent, without obtaining prior
15 written approval of the principal supervisory agent?

16 A I mean, that we shouldn't approve it
17 because they wouldn't meet the federal net worth
18 requirements. We couldn't approve it. They wouldn't
19 approve it. Once you meet the requirements, they
20 don't have to get approval, is my understanding.

21 Q If they don't meet the requirements, they
22 cannot make direct investments?

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1 A Unless they get written approval from the
2 principal supervisor.

3 Q But that didn't -- that applied not just to
4 the broker/dealer issue, investment, but also to
5 other investments that they would have made at that
6 time or subsequent; is that correct?

7 A Right, in --

8 MR. COLE: Well, again, let's mind our
9 legal technicalities here. I think "direct
10 investment" is a very specific defined term in the
11 federal regulations, and I'm happy to have him answer
12 the question, but I don't want to gloss over what is
13 a significant legal concept here.

14 BY MR. GICALE:

15 Q I understand, but this rule didn't just
16 apply to broker/dealers. It applied to any prior --
17 any direct investments in service corporations;
18 correct?

19 A Uh-huh. Right.

20 Q Now, for instance, there were other --
21 Madison Financial was a service corporation of
22 Madison Guaranty; correct?

1 A Correct.

2 Q And Madison Financial had invested in a

3 number of real estate ventures; is that correct?

4 A Uh-huh.

5 Q Campobello was one of them?

6 A Uh-huh.

7 Q Castle Grande became one of them?

8 A Uh-huh.

9 Q Maple Creek was one of them?

10 A Uh-huh.

11 Q Did you view this at the time as

12 prohibiting Madison Guaranty from making any direct

13 investments in those -- in Madison Financial with

14 respect to those developments at this point in time?

15 MR. COLE: Mr. Gicale, I just want to make

16 sure you're not including a fact in your question

17 that may or may not be accurate. Are you telling

18 Mr. Handley that the investment in those real estate

19 entities that you named was made by Madison Guaranty,

20 the parent institution, as opposed to Madison

21 Financial, the subsidiary? Because I think it makes

22 a difference.

1 MR. GICALE: There's a question.

2 MR. COLE: Again, I don't want to interfere

3 with your question, but I want to frame it carefully

4 and you had a factual premise in your question that

5 the investment was made directly by the parent

6 institution.

7 THE WITNESS: Some of those are second tier

8 service corporations that the first tier made

9 investments in.

10 BY MR. GICALE:

11 Q The first two being Madison Financial in

12 second tier operations. But there were -- but

13 Madison Guaranty -- well, how did you view this rule

14 as applying to -- between Madison Guaranty and the

15 first tier corporation and the second tier

16 corporation?

17 A Right. There's some question when this

18 regulation came in. I don't think this came in until

19 the latter part of '94, and I think a lot --

20 Q '84, you mean?

21 A Yeah, '84. So I don't think this would be

22 allowed to make the investments in Madison because

1 they were made prior to that.

2 Q What about investments or increases in
3 investments made subsequent in '85?

4 A Yeah, I think we tried to address that with
5 the broker/dealer.

6 Q Broker/dealer was just one example of
7 another direct investment; correct?

8 MR. COLE: My problem with your question is
9 it's almost a hypothetical question unless you want
10 to show him documents or elicit through his testimony
11 specific instances of direct investments by the
12 institution after this date. I'm not sure that
13 you're asking him a fair question.

14 MR. GICALE: What I want to know is whether
15 or not they were concerned about direct investments
16 in the service corporations --

17 THE WITNESS: The answer is yes.

18 BY MR. GICALE:

19 Q -- other than the broker/dealer back in
20 June of 1985.

21 A Yes.

22 Q And what steps were you taking to monitor

1 those investments?

2 A We told them we wouldn't approve the
3 broker/dealer until they met the net worth
4 requirements.

5 Q What about investments in other -- other
6 investments in service corporations? What were you
7 doing to address those investments if they occurred?

8 A I don't know that they've made any after
9 March of 1985 or when this came into effect. I don't
10 know of any specific ones that they've done. I think
11 they made those investments prior to that.

12 Q What about Castle Grande?

13 A I think that was prior to that.

14 Q That did not occur in October of 1985?

15 A The association didn't do it. I mean, I
16 think that may have been a second tier investment.

17 Q Did you view second tier investments as
18 coming within this rule in 1985?

19 A No. Because it wouldn't be a direct
20 investment by the association.

21 Q Depending on how the financing was worked
22 out; correct?

1 A Right. But I have no --

2 MR. COLE: There's some important concepts
3 here. And if I could ask Mr. Handley one question.

4 If there had been a prior investment in the
5 service corporation by the institution itself, for
6 example, to capitalize the service corporation, then
7 is it your testimony that subsequent allocations of
8 that capital or uses of that capital would not be
9 subject to this provision? Because I think that may
10 be where the confusion is here as to later use of the
11 proceeds of an initial investment in a service
12 corporation, if that's helpful.

13 MR. GICALE: There's not confusion and
14 that's not really the point of my question. And I
15 just --

16 THE WITNESS: Maybe I don't understand the
17 question.

18 MR. COLE: That's what I'm saying. I don't
19 understand it. I don't think he understands it.

20 BY MR. GICALE:

21 Q This prohibition applied to direct
22 investments other than the broker/dealer arrangement;

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1 correct?

2 A Right, but I think they made most of those
3 prior to that reg.

4 Q And my question of you is what steps did
5 you take to monitor whether or not they were
6 making -- Madison Guaranty was making any direct
7 investments in service corporations?

8 A The only one we were aware of was the
9 broker/dealer action. We told them we weren't going
10 to approve that --

11 Q What steps did you take to become aware of
12 it? Did you check their books on a weekly or monthly
13 basis to see whether money was going into the service
14 corporation?

15 A No. What we did was monitor the things
16 I've already told you about, the quarterly financial
17 statements, the independent audits and examination
18 reports.

19 Q But how would you know, for instance, if --
20 how could you stop them from investing in a service
21 corporation if you waited until you received a
22 quarterly report, and they invested at the beginning

1 of the quarter?

2 A It's like you can't stop people from
3 stealing refrigerators if they're left on the back
4 porch.

5 Q No, but you -- go ahead.

6 A But what you do is monitor those financial
7 statements, and that's what we did, but we don't
8 have -- we didn't ask them to -- we didn't go out and
9 look at their books every month or didn't ask them
10 how much money they invested in that.

11 The line rule sets forth what they have to
12 do when they want to make a direct investment, and in
13 certain cases, they have to make an application with
14 us, and we reviewed -- like the broker/dealer
15 application. They filed it. We asked them, do you
16 have the net worth in place, and they said no, we
17 weren't going to approve it until you do.

18 Q But if they don't come to you with the
19 application, and they go ahead and increase their
20 investment, direct investment in a service
21 corporation, how do you prevent that? What means --

22 MR. COLE: That's such an unfair question,

1 if they don't comply with their reporting
2 requirements. What means do you have to know what
3 actions they took?

4 THE WITNESS: The only question is if they
5 don't report it correctly on the things we're
6 monitoring, they don't file that application, we
7 couldn't catch them.

8 BY MR. GICALE:

9 Q The only thing you were requiring them to
10 file with you at the time were quarterly reports and
11 annual audited statements --

12 A And the examination reports.

13 Q But there was an examination in '84, early
14 '84 and there wasn't another one until early '86;
15 correct?

16 A Right.

17 Q So would the quarterly reports tell you
18 whether or not they had increased their investment in
19 service corporations?

20 A I'm trying to think how they report it.
21 Not necessarily, they wouldn't. I think they just
22 report it as investments in other subsidiaries. We

1 wouldn't know where they invested it.

2 Q Then how did you monitor compliance with
3 this section?

4 A Relying on the examination reports and the
5 independent audit reports and complying with the
6 rules in the law. You have to take that they will --
7 you have to take that they're honest people until you
8 find that they don't. That's just the way it works.

9 Q But the quarterly statements would not
10 necessarily tell you whether the investment would
11 increase?

12 A I don't think so, no.

13 Q And would the audited yearly statement tell
14 you whether or not --

15 A Yes, I think it would. I think it's the
16 CPA's audit position if they were in violation of the
17 rules and regulations, they'd have to tell you that
18 in the examination report certainly.

19 Q But under that scenario, you wouldn't know
20 until a year had expired whether or not they were in
21 violation; correct?

22 A It could be up to a year, depending on when

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1 the examination report was done and an audit report
2 was done and when they made their investment.

3 MR. COLE: And if they didn't make their
4 application as they were required to do by law.

5 THE WITNESS: I don't know what your
6 question --

7 BY MR. GICALE:

8 Q What was the consequence of them not making
9 the application to you?

10 A Which application?

11 Q If they didn't make an application to you
12 for approval, what was the consequence? There was no
13 consequence to it?

14 MR. COLE: The consequence is he wouldn't
15 know about it.

16 THE WITNESS: I think what we could have
17 done if we found out about it, we could take steps to
18 bring them into compliance like we're doing now, make
19 them get rid of it --

20 BY MR. GICALE:

21 Q At that point, could you have monitored
22 their books on a monthly basis, for instance?

1 A Sure, we could have done it, but would we
2 want to? The Federal Home Loan Bank put an agreement
3 in which is basically agreeing to it and monitoring
4 things. We could have done that, yes.

5 Q Could you have asked at that point based on
6 the history in '84 and '85 to have the Federal Home
7 Loan Bank Board seek to remove the directors and
8 officers?

9 A We could ask that, but that's not a
10 requirement and the Federal Home Loan Bank was doing
11 the same supervision we were doing and that was their
12 requirement. And later I think they took that step.

13 Q Was that at your request or your own
14 initiative?

15 A It was on their doing but we discussed the
16 matter with them and concurred with them.

17 Q So did you take any steps other than
18 reviewing the annual audited financial statement to
19 determine whether or not Madison Guaranty was in
20 compliance with this regulation in 1985?

21 A Which regulation?

22 Q 563.9, the one dealing with direct

1 investments in service corporations.

2 A The only thing we would do is in reviewing
3 the audit reports and examination reports filed by
4 the Federal Home Loan Bank Board which would disclose
5 federal noncompliance.

6 Q But again, examination reports were every
7 18 months?

8 A Yes, but you asked me what we would do and
9 that's what we would do.

10 Q Do you know whether or not in the balance
11 of 1985 there were any increases in -- or direct
12 investments that occurred in the service
13 corporation? Did you later learn that there were
14 direct investments in the service corporation that
15 occurred without approval of the principal
16 supervisory agent?

17 A I think the '86 examination report
18 reflected that.

19 Q Do you recall what those investments were?

20 A No. I'd have to look at the examination
21 report.

22 Q I'm going to show you what's marked for

1 identification as document 500153 and 154. This is a
2 letter to Beverly Bassett and Nancy Jones dated June
3 17, 1985 from Rick Massey, and I specifically refer
4 your attention to paragraph 7 and 8 dealing with two
5 exhibits, C and D, D being copies of quarterly
6 minimum net worth calculations.

7 Were these the calculations that were
8 attached to the earlier document that I showed to
9 you? Why don't you take a moment to review the
10 letter.

11 (Witness reviewed document.)

12 A Okay.

13 Q After reviewing that letter, a copy of that
14 letter and the attachments on the earlier document,
15 are those the attachments that were referred to in
16 the letter?

17 A I really don't know. I don't know why it
18 would be attached to the memo, but it is a March 31,
19 '85 minimum net worth calculation, I assume, of
20 Madison.

21 Q Do you recall whether or not you came into
22 possession of those in the securities department

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1 commission -- securities commission?

2 A I remember they did file them.

3 Q With your commission?

4 A Yes.

5 Q And you reviewed them; correct?

6 A Yes.

7 MR. COLE: Does "with your permission"
8 refer to taking the document from Mr. Handley rather
9 than filing the net worth calculations with the
10 department?

11 You reached across and said "with your
12 permission." Were you talking about taking the
13 document?

14 MR. GICALE: No, with your commission.

15 MR. COLE: Oh, I'm sorry, I thought I heard
16 you to say with your permission.

17 MR. COLE: I'm sure the record is very
18 clear there.

19 BY MR. GICALE:

20 Q I'm going to show you what's marked for
21 identification as a memorandum from Charles Handley
22 to Beverly Bassett dated June 18th, and it's marked

1 500179 through 180. This is again, dealing with this
2 broker/dealer matter.

3 Directing your attention to paragraph 3 on
4 the second page, that paragraph summarizes the
5 minimum net worth requirements of Madison Guaranty
6 and in it you state as follows: "Exhibit D reflects
7 that the association did not meet the minimum net
8 worth requirement of section 563.13 in the Federal
9 Home Loan Bank Board's regulations by \$410,436 as of
10 March 3, 1985, \$281,102 as of April 30, 1985, and
11 \$186,471 as of May 31, 1985."

12 Was that based on your review of Exhibit D
13 that we showed you earlier; is that correct?

14 A Yes, that's what it says.

15 Q And in that memo, you explained to Beverly
16 Bassett and Nancy Jones how "one of the regulatory
17 consequences of bulletin S-8560 dealing with this
18 issue on net worth is that an insured institution
19 cannot make direct investments in service
20 corporations operating subsidiary equity securities
21 or other real estate without prior written approval
22 of the principal supervisory agent."

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1 And that's the supervisory bulletin that we
2 earlier discussed; correct?

3 A Right.

4 Q So you were alerting them to that, that
5 issue?

6 A Uh-huh.

7 Q Did you have any discussions with Beverly
8 Bassett and Nancy Jones about the fact that the net
9 worth was not meeting the board's requirements and
10 what the consequences of that were?

11 A I don't recall because I pretty well stated
12 it in this memo once I got a copy of it.

13 Q Did you talk to Beverly Bassett and Nancy
14 Jones about taking some steps to ensure that Madison
15 Guaranty did not make any direct investments in
16 service corporations, other than the broker/dealer
17 issue that you were working on?

18 A No, the only one I recall is that we not
19 approve the broker/dealer until they met the net
20 worth requirements.

21 Q On the last page on paragraph 5, it says
22 the association has already purchased and owns 100

1 percent of the stock of Thorne & Company, the
2 proposed broker/dealer service corporation. The
3 association should advise if this is correct. If so,
4 the price paid."

5 Now, you were concerned there that this
6 association had indeed invested in a service
7 corporation; correct?

8 A Uh-huh.

9 Q Without approval?

10 A Right.

11 Q What did you subsequently do about that?

12 A It's in the memo. In fact, they answered
13 that question. They did buy it and how much they
14 paid for it.

15 Q Did they get approval to do that?

16 A No, but I recall they only paid like \$5000
17 for it.

18 Q Did you talk to the Federal Home Loan Bank
19 Board about that?

20 A Don't recall that, because we never
21 approved the application to go into the broker/dealer
22 business.

1 Q Now, you had a subsequent exchange of
2 various correspondence between you and the Rose Law
3 Firm and Madison Guaranty on general accounting
4 principles?

5 A Yes, we were trying to resolve how much
6 money they needed to meet the 3 percent requirement,
7 as I recall.

8 Q Now, in August of 1985 -- let me show you
9 what's marked for identification as a letter dated
10 August 30, 1985 to Beverly Bassett from Richard
11 Massey. He indicated to you that in the first
12 paragraph "based on the June 30, 1985 net worth
13 calculation, Massey's net worth was \$842,393 below
14 that required by the Federal Home Loan Bank Board";
15 correct?

16 A Uh-huh.

17 Q You were concerned about that?

18 A Uh-huh.

19 Q Correct?

20 A Uh-huh.

21 Q And then indicated that -- they indicated
22 that the remedy for this was to obtain or to offer

1 preferred stock and offer limited partnership units;
2 correct?

3 A Uh-huh.

4 Q I show you what's marked for identification
5 as Bates number RLF 103174. These are notes of yours
6 dated September 12, 1985. Could you take a moment to
7 review those.

8 (Witness reviewed document.)

9 A Uh-huh.

10 Q Addressing your attention -- directing your
11 attention to the second paragraph of that memo dated
12 September 12, 1985, you state that "Madison's
13 deficiency in net worth as required by the Federal
14 Home Loan Bank Board has increased greatly since
15 March 31, 1985 as of 6/30/85 the deficiency was
16 \$842,393."

17 Now, you made some recommendations in there
18 referenced on the second page. In paragraph 2, you
19 indicate that approval be conditioned on the
20 following. "An opinion of counsel that the preferred
21 stock will meet all the conditions" -- I can't read
22 your writing there -- "conditions" --

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1 A It's cut off. It's in the attached Federal
2 Home Loan Bank's proposed rules so the preferred
3 stock to be included as a part of the regulatory net
4 worth.

5 Q Now, at that point you were looking for an
6 opinion from whose counsel?

7 A Theirs.

8 Q Bank's counsel?

9 A Uh-huh.

10 Q And that was Rose Law Firm at the time;
11 correct?

12 A Uh-huh.

13 Q Now, apparently there was a meeting in
14 August of 1985 on this issue where you subsequently
15 agreed or Beverly Bassett agreed to approve the
16 broker/dealer upon Madison's meeting the Federal Home
17 Loan Bank's minimum net worth requirement by
18 December 31, 1985. And I'm going to show you what's
19 marked for identification as Exhibit RLF 103178.
20 It's a letter dated October 17, 1985 to Richard
21 Massey from Beverly Bassett referencing that
22 meeting. Do you recall that?

1 A Uh-huh.

2 Q Were you present at the meeting?

3 A I had maybe three or four meetings with
4 Massey and Latham, and I can't remember the dates but
5 I think one meeting Beverly was at. I can't remember
6 specifically, but I think so.

7 Q Now, why is it that you gave them until
8 December 31, 1985 to meet this net worth requirement?

9 A Because we didn't want to have an open
10 end -- we wanted to meet the net worth as soon as
11 possible and we didn't want to have an open end time
12 period. We wanted to give them a time certain to do
13 it so they would. They would suffer the consequence
14 if they didn't.

15 Q What was the consequence you threatened
16 them with?

17 A Not being able to do it.

18 Q Now, you -- your agency had been aware of
19 their net worth problems since July of 1984. Were
20 you continuing to have discussion with the Federal
21 Home Loan Bank Board about their net worth position
22 in October of 1985, if you can recall?

1 A Their letters would be in the file. I'm
2 sure that they -- there was discussion about it. I
3 can't remember. But any correspondence between the
4 Federal Home Loan Bank Board and us and them would be
5 in the file.

6 Q Do you recall without looking at those
7 letters?

8 A I didn't talk specifically to anybody, but
9 I think Beverly talked to -- I know Beverly had some
10 conversations with the people at the Federal Home
11 Loan Bank pretty regularly, but I didn't.

12 Q About this particular bank, Madison
13 Guaranty, and this issue?

14 A I'm sure, but S&Ls in general. They would
15 talk to her more than me.

16 Q During this time period, August, September,
17 October 1985, do you know who in particular she may
18 have been talking to?

19 A No. Whoever the letters reflect as being
20 the supervisory agent and assistant.

21 Q I'm going to show you what's marked for
22 identification as number 500246 through 249. These

1 are copies, I believe, of handwritten notes of yours
2 dated December 23, 1985 from Charles to Beverly and
3 file. Are these copies of your notes?

4 A Yes.

5 Q And these detail a conversation you had
6 with Mr. Latham on that date?

7 A Uh-huh.

8 Q Do you want to take a moment to review
9 them?

10 A Okay.

11 MR. COLE: Can we go off the record.

12 MR. GICALE: Sure.

13 (Discussion off the record.)

14 BY MR. GICALE:

15 Q Now, Mr. Handley, you've had an opportunity
16 to review these notes dated December 23, 1985;
17 correct?

18 A Yes.

19 Q Now, you had a conversation with Mr. Latham
20 about whether or not they would do any broker
21 business until they had met the net worth
22 requirements; correct?

1 A Uh-huh.

2 Q And what was his understanding at that
3 point?

4 A That his application had been completed.
5 He hadn't been doing any business because his
6 application hadn't been completed.

7 Q He indicated that wasn't his understanding
8 of the agreement but he agreed to abide by it in any
9 event?

10 A Yes.

11 Q On the third page of this document, it says
12 that "they planned" -- this is the middle paragraph
13 or the second paragraph -- "they planned on having a
14 subordinated debentures issue instead of a preferred
15 stock issue because the interest paid of the
16 debentures would be expensed." Is that what that
17 says?

18 A Right.

19 Q And dividends on the preferred stock could
20 not?

21 A Right.

22 Q So was he indicating to you at that point

1 in time that they were going to change what they were
2 going to do?

3 A He told me they were thinking of filing
4 another application to do subordinated debentures
5 instead of preferred stock because S&L could write
6 off the expense of the dividend. A dividend wouldn't
7 be an expense. It would be a reduction of net worth.

8 Q Do you recall having any other
9 conversations with Beverly Bassett or Nancy Jones or
10 Madison Guaranty or the Rose Law Firm with respect to
11 this preferred stock matter and the broker/dealer
12 matter through the end of December 1985?

13 A No. As I recall, December 31 came and
14 gone, and they didn't comply.

15 Q Was there any requirement at the securities
16 commission in 1984, 1985 and 1986 to report to the
17 governor's office with respect to the status of the
18 various savings and loans, state chartered savings
19 and loans?

20 A None that I know of.

21 Q Were there any reports made to the
22 governor's office in '84, '85 and '86 as to the

1 condition of savings and loans in Arkansas?

2 A None that I know of.

3 Q Did you or Beverly Bassett ever consult
4 with the governor or the governor's staff on the
5 condition of --

6 A I can't answer for Beverly, but I didn't.

7 Q Did you ever prepare any reports at the
8 request of Beverly or her predecessor for use in
9 advising the governor or the governor's staff on the
10 condition of savings and loans in Arkansas in '84,
11 '85 and '86?

12 A None that I know of.

13 Q Do you know in '84, '85 and '86 whether any
14 information with respect to Madison Guaranty was
15 conveyed to the governor or the governor's office
16 about the financial condition of Madison Guaranty by
17 you or someone at your commission?

18 A In subsequent depositions and stuff, I
19 think you've seen a memo to Sam Bratton about it, but
20 not while I was there. In testimony and things like
21 that, I've been told, or by a reporter, but not until
22 recently.

1 Q And you've become aware of some memo to Sam
2 Bratton from whom?

3 A I can't remember whether it was in some
4 documents shown to me by the FBI or the grand jury or
5 some reporter. I've dealt with probably 100
6 reporters on this issue. I mean, I just can't
7 remember, and I can't even remember what it was.

8 Q Do you recall the date of the memo?

9 A No.

10 Q In '84, '85 and '86 you were the person
11 responsible for reviewing the quarterly and the
12 annual audited financial statements as well as the
13 examination reports of Madison.

14 A Uh-huh.

15 Q Did you on a regular basis advise Beverly
16 Bassett after you reviewed those reports as to the
17 condition of Madison Guaranty?

18 A Uh-huh.

19 Q Did you do that orally or in some written
20 report form?

21 A You have copies of my memos and sometimes
22 orally.

1 Q Well, I've just shown you copies of memos
2 with respect to the broker/dealer issue and the
3 preferred stock issue. Are there some other memos
4 that exist --

5 A No, you have all the memos, but I sent some
6 of those memos, speak about their own net worth and
7 what reports they file.

8 Q But those memos were dealing with a
9 specific issue, the broker/dealer issue and preferred
10 stock. As you reviewed a quarterly statement of
11 Madison Guaranty or the annual audited statement of
12 Madison Guaranty, did you prepare some kind of
13 summary for Beverly Bassett so she knew what the
14 condition was?

15 A You would have copies of them.

16 Q Do you have copies of them?

17 A At the office. I mean --

18 Q You have copies of memos that you prepared?

19 A We're talking about the same memos --
20 there's some other memos that you haven't shown me,
21 but there's some here where we talk about the net
22 worth.

1 MR. GICALE: Let's go off the record.

2 (Discussion off the record.)

3 BY MR. GICALE:

4 Q Earlier, you testified that the memos that
5 I showed you had references to your review of the net
6 worth position of Madison Guaranty; correct?

7 A Uh-huh.

8 Q And those reflected your work after
9 reviewing those quarterly and annual reports;
10 correct?

11 A Uh-huh.

12 Q Are there any other memos that you prepared
13 that you're aware of with respect to the status of
14 Madison Guaranty in terms of summarizing what the net
15 worth position or the investment of the service
16 corporation was?

17 A I know there are some others that you
18 haven't shown me, but we've made them available to
19 you.

20 Q How frequently would you submit memos like
21 that? Would they be done on a quarterly basis, for
22 instance?

1 A No, not necessarily. Drastic changes and
2 things like that. You have to remember, our office
3 policy is that Beverly would initially get all the
4 mail, all the exam reports and quarterly reports and
5 look at them first and then give them to me. She
6 would actually review everything we got first and
7 give them to me.

8 Q Would you only review it if she asked you
9 to review it?

10 A No, I reviewed it -- I reviewed it and if
11 anything drastic -- I would write a memo or talk to
12 her about it. I do know there's other memos. Like
13 in '82 when I first brought the thing, they became
14 insolvent by \$5000 and there's a string of memos
15 regarding them, they'd kick in \$100,000. But I know
16 that's not the time period we're talking about.

17 Q But there were a string of memos when that
18 occurred?

19 A Right.

20 Q Do you recall any other memos in '85 that I
21 haven't shown you?

22 A I've seen so many memos -- I'm trying to be

1 honest.

2 Q I know, and if there's any that stand out
3 in your mind in '85 or '6 --

4 A The only thing I know is you have copies of
5 all the memos I've written about this.

6 Q Don't assume that that's correct, that
7 that's the case.

8 But do you recall any others independent of
9 these?

10 A No.

11 Q I'm going to show you what's been marked
12 for identification as -- with the number 84 again but
13 this is a statement and affidavit dated April 7,
14 1984. I believe this is represented to be your
15 affidavit. It is a three-page affidavit sworn to
16 before Patrick Durkin, special agent of FDIC/OIG. Is
17 this a copy of the affidavit that you gave to
18 Mr. Durkin on that day?

19 A Yes.

20 Q Is this an accurate reflection of your
21 statement to him on that date?

22 A Yes.

1 Q I'm going to refer you to the second page
2 of that affidavit, the second paragraph starting with
3 "Bassett." And going down to the sentence which
4 reads "we all agree that this was allowed under this
5 provision." When was it that you changed your mind
6 from allowing this under the wild card provision to
7 allowing this under the business corporation's
8 provision? Was that when you met with Beverly
9 Bassett?

10 A Well, I got Nancy's memos we discussed
11 previously. I got Nancy's memo first which stated
12 that opinion, and then I went and talked to Beverly
13 and Beverly told me she agreed with it and had read
14 Nancy's memo and I agreed with them. We went over
15 that at the beginning.

16 MR. COLE: More than once, I believe.

17 BY MR. GICALE:

18 Q Did you ever talk to anyone else at the
19 Rose Law Firm other than Mr. Massey?

20 A No.

21 Q Did Hillary Clinton ever attend any
22 meetings where you were present?

1 A No.

2 Q Or did you ever speak to her on the phone
3 concerning this or any other matter?

4 A No.

5 Q Did Beverly Bassett ever tell you that she
6 talked to Hillary Clinton about this matter?

7 A Yes, recently, she did. She told me they
8 phoned her one time to see if we got the application
9 and she said yes and it had been turned over to me
10 and to talk to me about it.

11 Q When did you talk to Beverly Bassett about
12 this?

13 A She told me that probably seven, eight
14 months ago.

15 Q How was it that you came to talk to her
16 about this matter seven or eight months ago?

17 A She was in the office, and we talked.

18 Q Was the purpose to talk about this or was
19 it for some other reason?

20 A She didn't come up there specifically to
21 talk to me. She was up there visiting in town.

22 Q How did this issue come up?

1 A We started talking about all the publicity
2 and how many reporters and how much time had been
3 taken by our departments and things like that, just
4 in the ordinary course of business.

5 Q Was this the first time you talked about it
6 since 1985?

7 A No. I think we've had -- she phoned me up
8 when the New York reporter -- we had a couple
9 conversations about Jeff Gerth or Garth's articles,
10 when that first came out.

11 Q When he first called her, she called you
12 up?

13 A It was after the articles had came out. I
14 don't know when that was.

15 Q Do you recall any other conversations with
16 her about this, other than the time of the Gerth
17 articles or seven or eight months ago when she was in
18 her office?

19 A We talked a couple of times after the Gerth
20 articles and when she would come up to the office.

21 Q Were you aware of the fact that Beverly
22 Bassett had represented Madison prior to becoming a

1 securities commissioner?

2 A I wasn't aware of that until after -- until
3 the time of the Jeff Gerth articles came out. I
4 went -- there is a letter in our file on the
5 Campobello from her filing some documents from the
6 Tucker law firm, but I didn't remember that letter
7 until the article came out.

8 Q Showing you what's marked for
9 identification as Exhibit Number 200797, a letter
10 dated August 30, 1984 to Supervisor Thalheimer from
11 Beverly Bassett on Mitchell, Williams, Selig, Jackson
12 & Tucker stationery?

13 A This is the one.

14 Q Is that the letter you're referring to?

15 A Yes.

16 Q You don't recall receiving this in 1984?

17 A I didn't recall it. Back then, I didn't
18 know who Beverly Bassett was.

19 Q But this was dealing with the Campobello
20 issue; correct?

21 A Right.

22 Q Have you since had occasion to review what

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1 she was requesting on behalf of Campobello and
2 Madison Guaranty?

3 A Yes, I did. It was just a file. She filed
4 some documents that were to be requested. That was
5 kind of like a cover letter to the documents.

6 Q During the time she was securities
7 commissioner, you were not made aware in '84 and '85
8 when this preferred stock issue came up that she had
9 represented Madison Guaranty in this issue; correct?

10 A No.

11 Q Based on her representation of Madison in
12 '84, do you believe she should have continued to --
13 she should have reviewed the matters in '85 dealing
14 with Madison?

15 A If it would have been me, I wouldn't have
16 done it, just for the appearance. That wasn't my
17 decision.

18 Q Beverly Bassett has stated that her
19 predecessor "Lee Thalheimer approved a risky
20 speculative real estate development at the time the
21 savings and loan was in need of capital to support
22 such a project." Do you know what project she was

1 referring to?

2 A Not really but I would guess Campobello
3 because that was the one approved.

4 Q And that was the project she worked on when
5 she worked at the Mitchell law firm; correct?

6 A That's what I read in the paper. I don't
7 know what she was doing.

8 MR. COLE: You only know that she filed
9 documents with your office; correct?

10 THE WITNESS: That's right.

11 BY MR. GICALE:

12 Q When Madison was seeking approval for
13 preferred stock, did you believe that a private
14 market existed for stock at that time? Was this a
15 realistic --

16 A I believe it was very hard to sell the
17 stock issue because of the bad conditions of S&Ls in
18 general and the bad financial condition of Madison
19 specifically. Even the preferred stock, where you
20 get preferences and get a stated rate, it would have
21 been a hard sell. I hoped it would because that's
22 what we wanted to do, improve the capital, but I

1 really didn't believe it would be a done deal.

2 Q You didn't believe it was realistic?

3 A I don't know if I'd use "realistic." I
4 just didn't think it would -- I didn't know who they
5 were going to sell it to. I certainly thought they'd
6 have to sell it to a sophisticated investor in a
7 private placement because I didn't think it could be
8 offered to the public. They might find -- they might
9 pay a rate that would attract someone like that, but
10 I didn't think it would be a done deal.

11 Q I'll represent to you that Beverly Bassett
12 has also indicated in the spring of 1986 that you had
13 numerous conversations with the Federal Home Loan
14 Bank of Dallas about Madison Guaranty and the status
15 of it. Do you recall having conversations with the
16 Federal Home Loan Bank?

17 A Not numerous, not numerous. Maybe three or
18 four or five times.

19 Q Do you know who those conversations were
20 with at the Federal Home Loan Bank Board in 1986?

21 A It would be the people who's on the letters
22 at that time.

1 Q Do you know whether the Federal Home Loan
2 Bank Board in 1986 sought your office's advice and
3 approval as to the proper regulatory course of action
4 to take in the matter?

5 A In '86 after the exam, they entered the
6 cease-and-desist order which we were having a meeting
7 and they made available and we concurred with what
8 they were going to do.

9 Q Did they ever seek your advice and approval
10 in taking this course of action?

11 A Yes. I would think so. We met before we
12 met with the board of directors and they showed us
13 the documents and said this is what we want to do and
14 we said yes.

15 Q Did they need your approval to go ahead on
16 it?

17 A No.

18 Q Did they ask your advice on it?

19 A Yes. They asked if we agreed with what
20 they were going to do, so I guess that's asking our
21 advice and we concurred.

22 Q Do you remember Walter Faulk?

1 A Yes.

2 Q What was his role at the Federal Home Loan
3 Bank with respect to Madison?

4 A The specific title correctly was chief
5 supervisory agent for the Dallas Federal Home Loan
6 Bank at the time we met with Madison board of
7 directors in '86.

8 Q When was the first time you knew that
9 Madison Guaranty was insolvent?

10 A When we got the Peat Marwick's audit report
11 for -- God, I can't remember -- December 31, '85
12 which they generated sometime in '87.

13 Q Who were the accountants prior to Peat
14 Marwick for Madison Guaranty?

15 A Frost & Company in Little Rock.

16 Q Did the Frost & Company firm submit some
17 papers to you with respect to net worth and the
18 financial status of the corporation while you were
19 trying to make a determination about the
20 broker/dealer issue?

21 A Yes.

22 Q And were those papers submitted to you by

1 Rick Massey from the Rose Law Firm?

2 A I mean, I can't remember. It's part of the
3 file.

4 Q When you met with the board of directors in
5 1986, the purpose then was to remove Mr. McDougal;
6 correct?

7 A Uh-huh, and get a cease-and-desist order in
8 place.

9 Q A receiver wasn't appointed until sometime
10 subsequent to that; right?

11 A Correct, but pursuant to the
12 cease-and-desist order, I think the Federal Home Loan
13 Bank had to approve the management.

14 Q Is there any reason why that action
15 couldn't have been taken in 1985?

16 A Well, I think they were allowed on the '86
17 examination report to do that and it wasn't there in
18 '85.

19 Q Were there other problems with the bank
20 prior to the '86 report --

21 A No, the '84 reflected problems with the
22 bank, but I think the '86 examination report showed

1 they greatly increased and that's the reason they
2 took the action in '86.

3 Q Well, you saw some great increases in
4 September of 1985 in terms of the net worth problem;
5 correct?

6 A They got worse. They got larger and they
7 didn't comply with the -- they didn't meet the
8 requirements to get the 3 percent net worth in that
9 time frame.

10 Q As of December 1985, they didn't meet the
11 net worth requirement. They did not, therefore, get
12 approval on the broker/dealer issue and didn't issue
13 preferred stock. Why at that point in time didn't
14 you recommend that McDougal be removed?

15 A Well, I think we were waiting for a new
16 recent exam to be conducted to have recent financial
17 information by a third party to do.

18 Q You didn't --

19 A And I think that was the basis of -- I
20 think that was the basis of putting the cease and
21 desist and removing the --

22 Q You did not believe you had sufficient

1 information in December of 1985 to take that step or
2 recommend that to the Federal Home Loan Bank Board?

3 A We couldn't because it was their
4 requirement, they were doing it, and to take those
5 steps, you have to have current proof and
6 documentation.

7 Q You had quarterly and annual reports which
8 reflected the increases -- the net worth position --

9 A Yes, but their examination report reflected
10 more than just the net worth. I think it reflected
11 noncompliance with the supervisory agreement and
12 growth and assets and other things. I think there's
13 a lot more in that '86 report that you can hang your
14 hat on doing that, not just the financial
15 information.

16 Q Did you have discussions, you or somebody
17 from your agency have discussions with the Federal
18 Home Loan Bank Board about your agency's ability
19 under state law to seize Madison Guaranty without
20 notice, remove management and immediately take
21 control of the institution?

22 A I didn't. I think maybe Beverly did.

1 Q Did she tell you about these conversations?

2 A Well, I remember she coming in and saying
3 they were discussing issuing the cease-and-desist
4 order, and I think that come up on the -- that they
5 were going to do that and use their authority.
6 That's what I recall.

7 Q Was there a discussion about whether to
8 proceed under state law or did they have the Federal
9 Home Loan Bank Board do this?

10 A Well, as I recall, Beverly was -- that's
11 what they wanted to do in the cease-and-desist
12 order. We don't have the authority to remove the
13 board in ours, so they'd have to use theirs and ask
14 for our concurrence.

15 Q When did you first become concerned about
16 the financial viability of Campobello and Castle
17 Grande?

18 A When they filed the application, the latter
19 part of '84.

20 Q The application for what?

21 A To do it.

22 Q On Campobello, to invest in Campobello?

1 A Yes.

2 Q What about Castle Grande?

3 A They never did file an application on
4 that. I think that was done through a second tier
5 service corporation.

6 Q Do you know in your dealings with Rick
7 Massey and the Rose Law Firm whether or not they had
8 access to the '84 examination and the supervisory
9 agreement?

10 A No.

11 Q Do you recall any discussions with them
12 about the '84 examination and the supervisory
13 agreement related to preferred stock or related to
14 the broker/dealer matter?

15 MR. COLE: "Them" would be Rick Massey?

16 MR. GICALE: Yes.

17 THE WITNESS: I can't recall any
18 specifics. They were their clients. I think if they
19 asked for them, the clients would give them to them.
20 It never crossed my mind that that would be an issue.

21 BY MR. GICALE:

22 Q You don't recall discussing in any event

1 the supervisory agreement or the '84 examination as a
2 part of this process of approving preferred stock or
3 broker/dealer or increasing net worth?

4 A No. I mean, I just assumed they knew about
5 it. It was their client. We discussed the financial
6 condition that's set forth in there.

7 Q Would it have made sense for them to have
8 known that, the financial condition of their client
9 when they approached you on the preferred stock
10 issue?

11 A I think so. I think we discussed it. We
12 made them aware it was a concern of ours, the
13 financial condition of their loan and net worth.
14 That's the reason we talked about it.

15 Q You talked about it --

16 A Just in general but I don't remember
17 saying, hey, have you seen the supervisory agreement
18 or the '84 exam? I just assumed that they had access
19 to it and was aware of it.

20 Q In your discussions with them, were they
21 aware of the restrictions on investments in service
22 corporations, the 6 percent restriction? Was

1 Mr. Massey aware of that?

2 A I don't think he probably did, but I
3 brought it up.

4 Q You talked to him about that?

5 A Yeah.

6 Q Reminded him about that and expressed your
7 concern about that; correct?

8 A Right.

9 Q Showing you again what's marked for
10 identification as 84 a memo dated July 17, 1985.
11 It's from you to Beverly Bassett and Nancy Jones. In
12 that memo, in the fourth paragraph -- I'm sorry, the
13 third paragraph, it says "I am still very concerned
14 about the adjustments made to the associated net
15 worth by the association's CPA in the December 31,
16 1984 audited financial statements." Was it around
17 this time that Mr. Massey submitted statements with
18 Frost & Company with respect to the financial
19 condition of Madison Guaranty?

20 A Uh-huh. I believe in response to this
21 memo.

22 MR. FROMEWICK: What's the Bates number on

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1 that?

2 MR. GICALE: Well, off the record.

3 (Discussion off the record.)

4 BY MR. GICALE:

5 Q You indicated this the CPA wrote you a
6 letter --

7 A As I recall, Massey wrote me a letter, but
8 the CPA -- they turned it over to the CPA at the
9 Frost firm, who wrote me a letter and filed some
10 financial statements with regard to this.

11 Q Which you used in making your determination
12 as to whether or not they were complying with the net
13 worth requirement; correct?

14 A Yeah. The gist of it was they were
15 contending that the adjustments that I thought should
16 be made reflected on the audit report wasn't made to
17 the financial statements they had been filing with us
18 because they were using regulatory accounting filing
19 the statements with us and the adjustments, they made
20 on the audit reports were GAAP accounting, so we're
21 talking about two different systems.

22 Q I'm going to show you what's marked a

1 document. It's a letter dated August 16, 1984 to Lee
2 Thalheimer from Madison Guaranty signed by James
3 McDougal.

4 Now, this references a meeting -- this
5 letter references a meeting apparently the previous
6 Friday where there was some discussion about Madison
7 Guaranty's investment in loans to its service
8 corporation exceeding the 6 percent limitation.

9 A Yes.

10 Q And some further discussion about
11 Campobello.

12 A Uh-huh.

13 Q You recall discussions about the Campobello
14 investment in 1984 when Mr. Thalheimer was there?

15 A Yes.

16 Q Then I'm going to show you a letter dated
17 January 21, 1985 to the board of directors of Madison
18 Guaranty Savings & Loan Association from you --
19 actually from Beverly Bassett by you, Charles
20 Handley, financial examiner supervisor.

21 A It was really by me. That was our policy.

22 It was a letter from me.

1 Q Attached to it is an order in which the
2 Arkansas Savings & Loan Association's supervisor
3 approved Madison Guaranty corporation's wholly owned
4 service corporation and investment in Campobello
5 development company, and the order that's attached is
6 dated September 13, 1984. It is signed by Lee
7 Thalheimer.

8 A Uh-huh.

9 Q Do you know why that was sent out in
10 January of 1985?

11 A Yes.

12 Q Why is that?

13 A At this time Lee was leaving as securities
14 commissioner and Beverly came in. I don't know the
15 exhibit dates, but Lee actually left probably the
16 last of September, 1st of October. And when Beverly
17 come in going through his office, Beverly found this
18 order in Lee's office and gave it to me. So I did
19 this letter specifically to advise the Federal Home
20 Loan Bank Board that we had approved the Campobello.
21 The cc is to them, and that was really the reason I
22 sent it out.

1 Q So although Thalheimer had approved it in
2 September, no notice was sent out until January of
3 1985?

4 A I didn't know about it until a few days
5 before the date of the letter.

6 Q Did you have any discussion with Beverly
7 Bassett about the approval of this investment?

8 A No. It was already approved by Lee. This
9 is a matter of notifying the Federal Home Loan Bank
10 that it had been approved.

11 Q Subsequent to December 31, 1984, did your
12 department approve any of the following? Did it
13 approve any direct investments and service
14 corporations of Madison Guaranty subsequent to
15 December 31, 1984?

16 A I can't remember the dates. The only
17 ones -- the way it worked is that under Rule 5 of the
18 S&L Act, there's a laundry list of things that
19 service corporations can automatically invest in
20 without our approval.

21 Q Without your approval or with the approval?

22 A Without. It was copied to the Federal Home

1 Loan Bank Board. The only ones they had to file
2 specific approval with us would be Gold Mine Springs
3 because it was going to be a joint venture
4 partnership development and Campobello because it was
5 going to be a joint venture, so that was the only
6 applications technically under the statute and rules
7 that they actually had to get approval from us. The
8 others were preapproved under the laundry list.

9 Q Did you approve any -- but my question of
10 you is did you approve any subsequent to December 31,
11 1984?

12 A I don't know what the dates were. We
13 approved two, and you have copies of the orders.
14 Gold Mine Springs and Campobello.

15 Q Do you recall approving any other direct
16 investments in the service corporations of Madison
17 Guaranty?

18 A No.

19 MR. GICALE: Off the record.
20 (Discussion off the record.)

21 BY MR. GICALE:

22 Q I'm going to show you what's marked for

1 identification as Exhibit 99000318 through 371. And
2 this is a copy of the examination report Federal Home
3 Loan Bank board March 4, 1986 with respect to Madison
4 Guaranty. Did you review this report?

5 A Yes.

6 Q And I'm going to direct your attention to
7 Exhibit 324, the second paragraph which starts with
8 "the projects."

9 A Okay.

10 Q It says "the projects represent direct
11 investment by Madison Guaranty itself or by its
12 service corporation, Madison Financial. Management
13 entered five new projects in 1985 and also
14 substantially increased investments in previously
15 existing projects. None of these investments were
16 approved by the principal supervisory agent as
17 required by insurance regulation 563.9-8," and I
18 can't read that last --

19 A I think that's direct investment that we
20 talked about earlier because they were under the net
21 worth.

22 Q -- "direct investments increased from 3.7

1 million when this regulation became effective in
2 March 1985 to 10.6 million as of April 30, 1986.
3 Direct investments have continued to increase to
4 12.3 million as of June 30, 1986."

5 Are you aware of the five projects that
6 they entered into in 1985 that were not approved by
7 the principal supervisory agent?

8 A I don't know specifically.

9 Q When did you first -- when did you first
10 become aware of the fact that they had entered into
11 these five new projects in 1985 and had substantially
12 increased their investments in other existing
13 projects?

14 A I would guess when we got this examination
15 report.

16 Q Did the yearly financial report at the end
17 of 1985 give you any indication as to whether or not
18 they had entered into five new projects in 1985 and
19 had increased their investments in previously
20 existing projects?

21 A I mean, I don't recall specifically. If I
22 did -- if I had known about it, I would bring it up.

1 I would guess they didn't.
2 Q Your guess is that annual report did not
3 tell you whether or not they had done this; is that
4 correct?
5 A Right.
6 Q So the only way you learned of this is
7 through this examination report?
8 A Yes.
9 Q Did you take any steps to stop Madison
10 Guaranty from entering into these five new projects
11 in 1985?
12 A No, because we didn't know about it.
13 Q I'm going to show you another document
14 dated April 2, 1986 and numbered 914 through 921 --
15 I'm sorry. Let me give the whole number, 9900914
16 through 9900921. This is a report dated April 2,
17 1986, Federal Home Loan Bank Board report to Rolf
18 Coburn through E. Berlinger from James Clark,
19 subject, interim report, Madison Guaranty.
20 Do you recall seeing this report?
21 A I don't think we got a copy of this. It's
22 not cc'd to us.

1 Q And so you don't recall it?
2 A I'm pretty sure we didn't because it's on
3 Federal Home Loan Bank Board in Indianapolis. We
4 wouldn't have gotten anything from them.
5 Q Were you aware of the fact in 1985, the
6 first year after the supervisory agreement was
7 signed, liabilities that Madison Guaranty grew 120
8 percent from 48 million to 105.8 million?
9 A I knew they grew quite a bit because of
10 broker deposits.
11 MR. COLE: "Liabilities" in this instance
12 is another way of saying deposits; correct?
13 THE WITNESS: Yes.
14 MR. COLE: Off the record.
15 (Discussion off the record.)
16 BY MR. GICALE:
17 Q In February of 1985, do you recall that
18 John Latham and Dr. Jerry Kendall were proposed as
19 members of the Arkansas Savings and Loan Board?
20 A Yeah, they were actually members of the
21 Arkansas Savings and Loan Board.
22 Q Do you know who proposed them? Did the

1 governor propose them, Governor Clinton propose them?

2 A Yes, that's who appoints members to the S&L
3 Board.

4 Q Were you involved in evaluating at all, or
5 were you in a position to evaluate the qualification
6 of these candidates to serve on the S&L Board?

7 A No.

8 Q Do you know whether Latham and Kendall were
9 qualified as candidates to sit on the S&L Board?

10 A I think they met the statutory requirements
11 of being from the district, one of them being on the
12 board of the S&L. I know that. I don't know what
13 you mean by "qualifications." You mean background?

14 Q Background, experience. Did either of them
15 have experience in savings and loans, sufficient
16 experience that would make them good members to serve
17 on the board?

18 A The statute doesn't set forth, other than
19 being from a certain Congressional district and being
20 associated with a savings and loan.

21 Q They just had to be associated with the
22 savings and loan?

1 A Uh-huh.

2 Q No requirement as to years of experience or
3 the kind of job they held?

4 A No.

5 Q Now, the only one who had experience who
6 was associated with the savings and loan was
7 Mr. Latham; correct?

8 A Right.

9 Q How was it -- how long had he been
10 associated with Madison Guaranty at that point in
11 1985?

12 A I don't have any idea. I just know he was
13 when he was appointed.

14 Q What about Dr. Jerry Kendall? What was his
15 association with the savings and loan?

16 A There's some people -- I think he served
17 the -- just -- one member of the board can be a
18 public member. I think he started in that position.

19 Q So they don't have to be associated with a
20 savings and loan?

21 A Not all of them, no.

22 Q Did you know that Kendall was a borrower of

1 Madison Guaranty?

2 A No.

3 Q If he was, would this have been a conflict
4 of interest, and could he have served on the board?

5 A Not under the statute. It wouldn't be
6 under the conflicts of interest.

7 Q You could still be on the board and still
8 borrow from Madison?

9 A It doesn't prohibit.

10 MR. COLE: You need to say yes or no for
11 the reporter.

12 BY MR. GICALE:

13 Q Did the commission have any responsibility
14 for evaluating any conflicts of interest for members
15 of the board?

16 A They didn't -- I would think if someone
17 felt it was, it could be brought up and discussed.
18 It never was. They have to recuse themselves if
19 there is a conflict of interest on the matter. The
20 statute provides that.

21 Q Was the board involved in approving this
22 preferred stock, the preferred stock issue involved?

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1 A No, not at all.

2 Q It was just the commissioner's
3 responsibility?

4 A Really the board is a body of appeal from
5 the supervisor decisions on most everything.

6 Q So for instance, if you had denied this
7 request for preferred stock, then Madison Guaranty
8 could have gone to the board and appealed your
9 decision?

10 A Yes.

11 Q What was the commission's relationship with
12 the Arkansas Banking Commission?

13 A None.

14 Q McDougal had an interest, an ownership
15 interest in Madison Guaranty and previous to that or
16 almost actually at a point in time I believe he also
17 had an interest in Madison Bank. Were you aware of
18 that?

19 A I knew that by reading the newspaper
20 articles.

21 Q Did you know that at the time in 1985 when
22 they -- in '84 and '85 when they came to you on these

1 various issues?

2 A I did know he had an interest in the bank
3 up there, but I just -- when they first bought the
4 savings and loan, a gentleman that was part owner of
5 the savings and loan named Smith, who's a professor,
6 talked to me about -- as I said, we wrote memos.
7 They got low on capital, and at that time he told me
8 that him and McDougal owned some of the stock of that
9 bank.

10 Q Of Madison?

11 A In '82.

12 Q Of Madison Bank and Trust?

13 A Yeah, a small town in north Arkansas.

14 Q Did you ever become aware of the fact there
15 was a cease-and-desist order imposed by the state
16 banking commission and the FDIC on that bank?

17 A No.

18 Q Did you ever become aware of the fact that
19 in April of 1985 at about the time that this
20 preferred stock request came in that John Latham had
21 purchased a major stock ownership in Madison Bank and
22 Trust from Steve Smith?

1 A No, I didn't know that. That's completely
2 new news to me.

3 Q Did you or anybody from your department
4 ever discuss the condition of Madison Guaranty with
5 Marlin Jackson who was the state banking
6 commissioner?

7 A I didn't, and not to my knowledge, we
8 didn't.

9 Q Whether it was Madison Guaranty or other
10 banks, was there a regular exchange of information
11 between the state banking commission and the
12 securities commission with respect to the status of
13 financial institutions in Arkansas?

14 A No.

15 Q Was there any prohibition against that?

16 A Well, in general, I don't think we could
17 disclose private information regarding filings
18 against us. That would be in violation of the law,
19 but I think we could -- you could assess public
20 matters like reports that were public and things like
21 that. We could do that.

22 Q For instance, if Marlin Jackson as banking

1 commissioner, or whoever was banking commissioner at
2 the time that the cease-and-desist order was entered
3 against Madison Bank, and McDougal had an ownership
4 interest in the bank, if they knew that, they were
5 aware of that cease-and-desist order and problems
6 with McDougal and his interest and his management of
7 that bank and he came along and bought an interest in
8 a savings and loan, could he make you or your
9 commission aware of that?

10 A I think it depends on whether that
11 cease-and-desist order was a public or nonpublic
12 document. I don't know.

13 Q Do you know whether or not the Rose Law
14 Firm ever had access to the '86 examination report,
15 March '86 examination report that I showed you
16 earlier?

17 A We didn't discuss it specifically, but they
18 were their clients. I think they could have access
19 to it.

20 Q Do you know in your discussions with Massey
21 or anybody from that firm whether or not they had
22 access to it or whether they had the information

1 contained in it?

2 A We never discussed that.

3 Q Would it be improper for them to have such
4 information?

5 A If their client chose to give them to him,
6 I wouldn't think it would. We couldn't give it to
7 them.

8 MR. GICALE: Off the record for a second.
9 (Discussion off the record.)

10 BY MR. GICALE:

11 Q Based on your earlier testimony, you said
12 that the Federal Home Loan Bank Board did
13 examinations on institutions every 18 months
14 approximately. Is that the schedule?

15 A I think that was the requirement.

16 Q The requirement every 18 months?

17 A At least every 18 months.

18 Q Unless the institution was a problem;
19 correct?

20 A Unless they deemed it a problem.

21 Q Do you know why the Federal Home Loan Bank
22 Board waited almost two years to review Madison

1 Guaranty after the '84 supervisory meeting?

2 A No. You'd have to ask them that.

3 Q And I believe as you earlier stated,
4 through conversations with you, Mr. Massey was aware
5 of the fact that Madison Guaranty was limited to 6
6 percent on investments in its service corporations;
7 correct?

8 A Yes, my memos to him says that, that you
9 have there. We discussed the issue in those memos to
10 him.

11 Q In the summer of 1985; correct?

12 A Uh-huh.

13 MR. GICALE: I have nothing further at this
14 point.

15 (Discussion off the record.)

16 EXAMINATION

17 BY MR. COLE:

18 Q Mr. Handley, I'm Lance Cole. I'm one of
19 the Democratic counsel to the Committee as I
20 indicated earlier. Mr. Gicale has been very gracious
21 today. It's his practice in letting me ask some
22 clarifying questions during his portion of the

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1 examination, but I do have some additional areas I'd
2 like to cover with you.

3 Going back to the issue of the proposal on
4 behalf of Madison Guaranty to issue preferred stock,
5 was the first knowledge you had of that proposal when
6 you received the telephone call or were informed of
7 the telephone call from Mr. Fitzhugh that is
8 referenced in your April 3, 1985 memorandum?

9 A Yes, that's correct.

10 Q And at that time, were you aware that the
11 Rose Law Firm was providing legal counsel to Madison
12 Guaranty Savings & Loan with respect to -- in
13 relation to this matter?

14 A No.

15 Q And you advised Ms. Bassett the same day
16 that you received, or your staff received this
17 inquiry; is that correct?

18 A Yes.

19 Q And what was your purpose in sending this
20 memorandum, your April 3, 1985 memorandum that's
21 marked RS 000700 through 701, to Ms. Bassett?

22 A To really let them know what action one of

1 our S&Ls was taking and that it was probably a new
2 application that we hadn't addressed before, and we'd
3 have to look at it closely.

4 Q And as I read your memorandum, you were
5 identifying for Ms. Bassett a legal issue that
6 existed with regard to whether the Arkansas statutes
7 provided for issuance of preferred stock; is that
8 correct?

9 A Yes.

10 Q Was it your view at the time that issuance
11 of preferred stock by this institution would be
12 beneficial if doing so was permitted under state law?

13 A Yes. I would want them to if they could.

14 Q And why is that?

15 A It would increase the net worth and
16 financial condition of the savings and loan, and
17 that's one of our purposes in being there.

18 Q And you were aware at that time that this
19 institution needed to increase its capital and net
20 worth?

21 A Yes, I knew it wasn't meeting the benchmark
22 requirements set by the Federal Home Loan Bank and

1 the net worth was decreasing monthly.

2 Q And were you also aware at that time that
3 federal regulatory authorities, including the Federal
4 Home Loan Bank Board in Dallas, were permitting
5 savings and loan institutions to issue preferred
6 stock?

7 A Yes.

8 Q And was the issue that you were concerned
9 with in this memorandum which provision of Arkansas
10 law, if any, would permit issuance of preferred
11 stock?

12 A Yes.

13 Q Did you have any discussions with
14 Ms. Bassett between the time of the receipt of this
15 telephone inquiry, which according to your memorandum
16 occurred on April 3, 1985, and the subsequent letter
17 from the Rose Law Firm?

18 A April 30?

19 Q It's dated, I believe, April 30, 1985.

20 A No. No conversations or correspondence
21 until we got the April 30 letter.

22 Q The April 30, 1985 letter from the Rose Law

1 Firm to you makes reference to the Arkansas Business
2 Corporation Act, which we discussed earlier in your
3 deposition. And as I understand the letter, it
4 asserts that that provision of Arkansas law provided
5 legal authority to issue for state chartered savings
6 and loan institutions to issue preferred stock; is
7 that correct?

8 A Yes.

9 Q And did you understand that letter to be
10 submitted in responses to the information that you
11 had provided Mr. Fitzhugh during your telephone
12 discussion on April 3, 1985?

13 A Yes.

14 Q And I'm not going to cover again the
15 testimony you provided regarding the discussions with
16 Ms. Bassett and Ms. Jones on the issue of what
17 provision of Arkansas law authorized the issuance of
18 the preferred stock, but I did want to draw your
19 attention to the affidavit that you provided in April
20 1994 to the Inspector General of the Resolution Trust
21 Corporation. And that's a document marked number
22 0000084 dated April 7, 1984.

1 And if I could direct your attention to the
2 second page of that document, there's a paragraph
3 that says "Bassett, Jones and I met to discuss our
4 interpretation of the preferred stock issue. We also
5 discussed the conclusion reached by Massey concerning
6 an institution being allowed to issue preferred stock
7 turned provisions of the Arkansas Business
8 Corporation Code. We all agreed that this was
9 allowed turned this provision."

10 Is that your recollection today of the
11 final outcome of the consideration of the issue that
12 you identified in your April 3, 1985 memorandum to
13 Ms. Bassett?

14 A Yes.

15 Q And do you recall whether Mr. Brady of your
16 department played a role in the consideration of that
17 issue?

18 A The only thing I know is that Beverly asked
19 him to review it, and I don't know what he said about
20 it. It was probably between him and Beverly Bassett.

21 Q And so you don't recall having any
22 discussions with Mr. Brady about this matter?

1 A I did not. The reason is that the
2 securities commissioner, who's the top person, and my
3 supervisor agreed with it, and I assumed that
4 Mr. Brady and Ms. Bassett had their conversation and
5 Ms. Bassett was satisfied with her opinion.

6 Q And the final authority as to this
7 decision, leaving aside the possibility of an appeal
8 to the Arkansas Savings and Loan Board, the final
9 authority was with Ms. Bassett under the statutes; is
10 that correct?

11 A That's correct.

12 Q So Ms. Bassett had the authority to take
13 into account the views of her staff and then come to
14 her own conclusion as to what course of action would
15 be appropriate under the laws that you were
16 administering?

17 A That's correct, and I think that's what she
18 done.

19 Q Do you know whether or not Ms. Bassett
20 drafted the May 14, 1985 letter to Hillary Rodham
21 Clinton at the Rose Law Firm in which she indicated
22 that she agreed that the Arkansas Business

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1 Corporation Act provided authority to issue preferred
2 capital stock?

3 A I don't know exactly. I only got a copy of
4 the letter after it was sent out. So I can't answer
5 you. But I would guess it is. It looks like a
6 personalized letter, and it looks like Beverly's
7 style.

8 Q In the lower left corner of the document
9 there are some initials that say BB/PS. Do you know
10 who PS is?

11 A That was Beverly's secretary at the time,
12 Phyllis Shelby. So by those notations there, Beverly
13 did type it herself and had her -- drafted it herself
14 and had her secretary type it.

15 Q So at least based upon the style of the
16 letter and your familiarity with Ms. Bassett's
17 correspondence and the initials of the typist shown
18 on the document, it would appear to you that this
19 letter was actually drafted by Ms. Bassett?

20 A Yes.

21 Q What was Mr. Brady's area of expertise or
22 area of responsibility at the securities department?

1 A He was a staff attorney. He did any legal
2 work that was assigned to him, the various industries
3 and acts that we regulate. I wouldn't say it's any
4 specific area.

5 Q Did he work in the broker/dealer regulation
6 area?

7 A Yes.

8 Q Was that his primary area of
9 responsibility?

10 A I couldn't say that. I would guess that he
11 did most of his work in that area because that's the
12 large volume of our department's business.

13 Q Did I generally work on state issues
14 relating to state chartered savings and loan
15 institutions?

16 A I would say no. I mean, he was just a
17 staff attorney, and she chose to give this to him.

18 Q Your department, as I understand it, had
19 regulatory responsibility for a number of different
20 kinds of businesses in addition to state chartered
21 savings and loan institutions; is that correct?

22 A That's correct.

1 Q What were the other financial entities that
2 your department regulated?

3 A Okay. We regulated security
4 broker/dealers, the registration of securities,
5 savings and loan -- state chartered savings and loan
6 associations, state chartered credit unions, loan
7 companies, loan brokers, check issuers, that's people
8 who issue money orders and sell travel checks,
9 prepaid funeral expenses and perpetual care
10 cemeteries.

11 Q When did Mr. Brady leave the department?

12 A I really can't recall.

13 Q Was it while Ms. Bassett was the
14 supervisor?

15 A Yes.

16 Q Are you familiar with the circumstances of
17 his departure?

18 A Not in particular, but I think he left at
19 her request.

20 Q So it's your understanding if he was not
21 terminated by her, she asked him to leave?

22 A Yes.

1 Q And had you seen any indication that
2 Ms. Bassett and Mr. Brady had problems working
3 together prior to his leaving the department?

4 A Yes.

5 Q In your dealings with the Rose Law Firm
6 relating to the proposal from Madison Guaranty to
7 issue preferred stock, which lawyers at the Rose Law
8 Firm did you have contact with?

9 A The only lawyer I had was Rick Massey.

10 Q And in your meetings and discussions with
11 representatives of Madison Guaranty, did they refer
12 to any lawyers at the Rose Firm other than
13 Mr. Massey?

14 A No.

15 Q So from your observation, Mr. Massey was
16 the lawyer, outside counsel for the institution with
17 primary responsibility for the matter, the preferred
18 stock proposal matter?

19 A Yes.

20 Q Do you have any knowledge as to how the May
21 14, 1985 letter from Ms. Bassett to the Rose Law Firm
22 came to be addressed to Hillary Rodham Clinton?

1 A I don't have any specifics. I just assumed
2 that they were in the legal practice together and
3 knew each other fairly well. It was a friendly --
4 she knew that Hillary worked for the Rose Law Firm.

5 Q But you're not aware of Ms. Clinton having
6 any contact with the securities department on this
7 matter?

8 A As I told you, Beverly told me that Hillary
9 phoned her up and said the filing had been made and
10 wanted to know who would handle it, and Beverly told
11 her to talk to me. I would be the person.

12 Q And that's the only contact that you're
13 aware of?

14 A Yes.

15 Q Now, subsequent to your department issuing
16 this May 14, 1985 letter, were there other conditions
17 that had to be met before the preferred stock could
18 be issued?

19 A Yes.

20 Q And in particular, were there certain
21 federal regulations that Madison would have to comply
22 with before they could issue the preferred stock?

1 A Yes. We were concerned that the Federal
2 Home Loan Bank had issued guidelines that the stock
3 issue had to meet before it could be issued and
4 before it could be counted towards net worth
5 requirements, and we asked that those be met.

6 Q So an additional regulatory approval would
7 have to be obtained from your department before the
8 stock could actually be issued; is that correct?

9 A Yes.

10 Q This letter, then, merely indicated that
11 there was legal authority under Arkansas law to issue
12 the stock if the other relevant regulatory
13 requirements were met; is that correct?

14 A Right. This was an opinion letter saying
15 that they could do it. They had to file specific
16 application, give specific amounts and assurances
17 that it met the requirements of the Federal Home Loan
18 Bank and what type of stock it would be and the
19 rates.

20 Q Considering this proposal from Madison
21 Guaranty to issue preferred stock, do you recall, had
22 your department ever received a similar proposal from

1 one of the other state chartered savings and loan
2 associations that you regulated?

3 A No. This is the one and only such request.

4 Q This was a new issue that your department
5 had to consider in terms of statutory authority?

6 A Yes.

7 Q And in your discussions with Ms. Bassett,
8 was anything said to you to indicate that this
9 proposal or application was being given special
10 treatment --

11 A No.

12 Q -- either because of the role of
13 Mrs. Clinton or the identity of the entity that was
14 requesting approval; that is, Madison Guaranty and
15 Mr. McDougal?

16 A It was never said and it was never -- I
17 never understood it to be that way.

18 Q If I could draw your attention again to
19 your affidavit that you gave to the RTC Inspector
20 General on April 7, 1994 on page 2. There's a
21 paragraph that reads "I was never pressured by anyone
22 at the Arkansas Securities Department, the Rose Law

1 Firm or Madison Guaranty to approve that Madison
2 Guaranty be allowed to issue preferred capital
3 stock."

4 Is that your recollection today, sir?

5 A It's a very correct statement.

6 Q And leaving aside whether you yourself were
7 ever pressured, do you have any knowledge as to
8 whether the Arkansas Securities Department received
9 any pressure from the governor's office or any other
10 source to approve this proposal?

11 A None to my knowledge.

12 Q Mr. Gicale asked you some questions about
13 the state savings and loan board and in particular,
14 the appointment of Mr. Latham and Dr. Kendall, I
15 believe, to that board. Do you recall those
16 questions?

17 A Yes, sir.

18 Q Did I understand you correctly to testify
19 that that board functions as an appellate body to
20 which a party can appeal a ruling by the savings and
21 loan supervisor?

22 A Yes. The only initial things they would

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1 consider would be a charter application. Every other
2 issue would be on an appeals basis from the decision
3 of the supervisor.

4 Q And is there an Arkansas statute that
5 requires a member of that board to recuse him or
6 herself if he or she has a conflict of interest?

7 A Yes.

8 Q And Mr. Gicale asked you or made reference
9 to the possibility of Madison appealing an adverse
10 ruling on this preferred stock issue if one had been
11 handed down by the savings and loan supervisor. If
12 such an appeal were taken, would the state statute
13 have required Mr. Latham and Mr. Kendall if they were
14 on the board at that time to recuse themselves?

15 A Yes, and another member appointed.

16 Q So Madison would have received no benefit
17 in that instance from persons having an affiliation
18 with it being members of the savings and loan board;
19 is that correct?

20 A I think they put that safeguard in there.

21 Q In fact, to the contrary, since those two
22 persons could serve and someone else would be

1 appointed, it might even be a detriment to them?

2 A Could be.

3 Q Madison Guaranty entered into a supervisory
4 agreement with the Federal Home Loan Bank Board in
5 1984; is that correct?

6 A That's correct.

7 Q And was your office consulted about that
8 agreement before it was entered into between the
9 Federal Home Loan Bank Board and Madison?

10 A Yes. As I recall, we got a draft copy of
11 the agreement, and I'm almost sure that Beverly had
12 talked to the supervisor in charge regarding it. But
13 I know we did get a draft copy to review before it
14 was executed for our comments.

15 Q And that supervisory agreement was
16 predicated on the findings of the federal examination
17 of Madison Guaranty that occurred --

18 A I think that was a large base of it. And
19 other things like we discussed, the quarterly
20 financial statements filed and audited financial
21 statements. But the major thing was the '84
22 examination report.

1 Q And Mr. Gicale asked you a number of
2 questions about what your department -- state of
3 Arkansas could have done in addition to or instead of
4 the actions that were taken by the federal
5 regulators. Would that have been unusual for your
6 state department to have taken a different approach
7 than the approach taken by the federal regulators
8 with regard to a troubled financial institution?

9 A Yes, very much so.

10 Q And why is that?

11 A I think they were the ones doing the exam.
12 They were the ones that had the detailed
13 examinations. They had intermediate steps, other
14 than closing them down, like issue the supervisory
15 agreement and cease-and-desist order and replace
16 management and things like that. They had steps in
17 their statutes and rules and regulations they could
18 take which we didn't, and they generated the
19 examination report.

20 Q So if I understand your testimony
21 correctly, the supervisory agreement that they
22 entered into with Madison was the regulatory response

1 that they, based upon their expertise, deemed
2 appropriate for this institution at the time; is that
3 correct?

4 A Yes, that was pretty common practice, I
5 think.

6 Q And essentially, while your office might
7 have objected to that, your department had no powers
8 other than to seek a receiver if you disagreed with
9 that approach; is that correct?

10 A That's right, or conservator in state court
11 action.

12 Q Would the Arkansas Savings and Loan
13 Department have needed the cooperation of the Federal
14 Home Loan Bank Board and the FSLIC in order to put a
15 state chartered S&L into receivership?

16 A Yes.

17 Q Particularly with regard to paying off
18 depositors?

19 A Very much so. They were the insurer. They
20 were the ones that would have to pay the money out.

21 Q In other words, your department did not
22 have the funds available or the responsibility to pay

1 off the depositors; is that correct?

2 A That's correct.

3 Q That responsibility was with the Federal
4 Savings and Loan Insurance Corporation, FSLIC?

5 A Correct. They had FSLIC insurance.

6 Q Up to the limitations that were provided at
7 the time per account. So if your department had
8 taken action to shut down or place into receivership
9 Madison Guaranty without the assent and cooperation
10 of the federal regulatory authorities, you could have
11 had a situation where a bank was being closed down
12 and the funds were not available to pay off the
13 depositors; is that correct?

14 A It could have caused total chaos, not only
15 in Arkansas but throughout the FSLIC insurance
16 system.

17 Q And did there come a time when your
18 department, in general, and Ms. Bassett in
19 particular, asked the federal regulatory authorities
20 to work with you to shut down Madison Guaranty?

21 A Yes. We sent a certified letter to the
22 director of FSLIC, I think Mr. Stewart Root advised

1 him we had three savings and loans which were
2 insolvent, which had been insolvent and we wanted him
3 to take it over.

4 Q And when did that take place? When did
5 your department send that letter, if you recall?

6 A I don't know the specific date.

7 Q Was it in 1987?

8 A Yes, latter part of 1987.

9 Q And what had happened at that time to
10 prompt your department to take that action? What had
11 happened with regard to Madison that prompted your
12 department to take that action?

13 A We received an audit report from Peat
14 Marwick on the association which reflected that the
15 savings and loan was insolvent.

16 Q Was that audit report the first -- and I'll
17 use the word "proof," but you correct me if that's
18 not the right word -- proof that your department had
19 that the institution was actually insolvent?

20 A Yes.

21 Q Prior to that time, while you may have had
22 concerns about their capital, you had no proof that

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1 they were insolvent; is that right?

2 A That's right.

3 Q And were there other state chartered
4 institutions that you regulated that also had capital
5 problems during that time?

6 A Yes.

7 Q And so the situation with Madison was not
8 unique?

9 A No, I don't think it was unique in the
10 whole industry at the time.

11 Q Either at the federal level or the state
12 level?

13 A Yes.

14 Q During the period that Ms. Bassett was the
15 savings and loan supervisor and your office was
16 considering various regulatory issues relating to
17 Madison Guaranty, did you ever have any indication
18 that Madison was receiving special treatment or that
19 she was taking unusual action with respect to
20 Madison?

21 A No, not at all.

22 Q To your observation, was Madison being

1 treated in the same way that other institutions in
2 the state were being treated by your department?

3 A Yes.

4 Q And how long have you been with the
5 department?

6 A 26-1/2 years.

7 Q So I take it that you served under both
8 Republican and Democratic governors and under a
9 variety of savings and loan supervisors?

10 A Yes.

11 Q And did you see anything unusual in the way
12 that Madison was being regulated under Ms. Bassett's
13 supervision?

14 A No.

15 Q Mr. Gicale also asked you some questions
16 about the Campobello project, and I believe you
17 testified that at a later time it came to your
18 attention that Ms. Bassett had sent a letter to your
19 department in 1984 before she became savings and loan
20 supervisor transmitting some documents relating to
21 Campobello; is that correct?

22 A Yes.

1 Q And did you ever discuss that with
2 Ms. Bassett?

3 A I think in one of our phone conversations
4 after the newspaper articles came out, she talked
5 with Gerth, or Garth. We did discuss that.

6 Q And what did she say?

7 A She told me that she -- her only extent to
8 that was to draft that letter and send the documents
9 that were enclosed and she had very little dealings
10 with these files.

11 Q And you were -- at the time period we're
12 talking about, which is 1984, before Ms. Bassett was
13 named savings and loan supervisor, you were the
14 examination agent or examiner in charge of reviewing
15 Madison submissions, were you not?

16 A Yes.

17 Q Did you review submissions related to
18 Campobello?

19 A Yes.

20 Q And did you see anything that would
21 indicate that Ms. Bassett had any involvement beyond
22 what she described to you in your discussion?

1 A No. Most of my dealings was with John
2 Selig of the law firm, former securities
3 commissioner.

4 Q And the Campobello application was approved
5 by Mr. Thalheimer; is that correct?

6 A Yes.

7 Q And did he discuss that with you before
8 approving it?

9 A Yes. We had several discussions.

10 Q So you testified earlier, I believe, you
11 were not aware of the letter, the approval letter
12 that Mr. Gicale showed you before it went out, and I
13 just wanted to clarify that you were aware of the
14 issue and had discussed it with Mr. Thalheimer, but
15 you didn't know that a letter had been sent out.

16 A Yes. I didn't know it had been approved
17 until I got that sometime in January. I thought we
18 still had some issues to resolve.

19 Q Did you state earlier that your department
20 also regulates prepaid funeral expenses?

21 A Yes.

22 Q And is that the same as burial insurance?

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1 A No. They're different. Burial insurance
2 is like an insurance. Prepaid is like a sales
3 contract where you prepay -- you pay for your funeral
4 in advance. It's for a fixed contract amount.

5 Q There have been some press articles
6 relating to allegations against a former municipal
7 judge in Little Rock named David Hale and a company
8 that, according to the articles, he controlled that
9 was in the burial insurance business.

10 Did your department have any regulatory
11 authority over that matter?

12 A Yes, we did. It wasn't the burial --

13 MR. GICALE: I would object. I'm going to
14 object to the relevance at this point.

15 MR. COLE: Are you going to instruct him
16 not to answer?

17 MR. GICALE: Let's go off the record for a
18 second.

19 (Discussion off the record.)

20 MR. COLE: I don't have anything further at
21 this time.

22 MR. GICALE: I just have a few questions.

EXAMINATION

BY MR. GICALE:

Q First, Mr. Selig was a former securities commissioner?

A Uh-huh.

Q When was that?

A Prior to Mr. Thalheimer.

Q You served under him?

A Yes.

Q For how long?

A As long as he was there. He was there four or five years.

Q And you had also dealt with him on this issue of Madison Guaranty; correct?

A We filed the Campobello application.

Q And he represented the Madison Guaranty when --

A At the meeting in Dallas.

Q -- at the meeting in Dallas in July of 1986?

A Yes.

Q Correct?

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A Uh-huh. He represented the board of directors.

Q You were present for that meeting; correct?

A Yes.

Q Along with Beverly Bassett? Was she there?

A Yes.

Q Who else was there from the securities commission?

A Just us two.

Q Do you recall a conversation at that meeting with respect to who was representing the bank, Madison Guaranty? Do you recall Beverly Bassett asking who was there to represent the bank?

A No, I don't recall it, but I watched the hearings and that issue came up.

Q But you don't recall her asking that question?

A No.

Q You said you had a phone conversation with Beverly Bassett about the letter that she had sent in the summer of 1984 with respect to Campobello; correct?

1 A Uh-huh.

2 Q And she said that was her only involvement
3 with Campobello?

4 A Uh-huh.

5 Q That's what she told you over the phone;
6 right?

7 A Right.

8 Q Did she tell you she had written a memo in
9 March of 1984 about Campobello and possible
10 violations of Interstate Land Sales Act?

11 A She mentioned she did some work on the
12 Interstate -- whatever that act is.

13 Q The Interstate Land Sales Act.

14 A Yes. She said that was the only work she
15 had done, writing that letter.

16 Q You earlier testified the only thing she
17 did was write the letter. Does this now refresh your
18 recollection as to something else?

19 A There's two. She told me she did some work
20 on the federal law, that law. I couldn't remember
21 the name of it and write the letter.

22 Q Is there anything she told you she did for

1 Campobello or Madison Guaranty or Madison Financial?

2 A No.

3 MR. COLE: I think you successfully
4 refreshed his recollection.

5 BY MR. GICALE:

6 Q Is there any reason why your agency could
7 not have asked for more frequent reports reflecting
8 the service corporation's investment -- I'm sorry,
9 Madison Guaranty's investment in the service
10 corporation in 1985?

11 A I don't think there's any reason. I don't
12 know if there's anything there that would give us
13 authority to do that. I mean, I don't remember
14 that. I could ask. I don't know if we could have
15 made them.

16 Q According to the Federal Home Loan Bank
17 reports in 1986, the five new projects entered into
18 by Madison Financial during 1985 resulted in a
19 \$5 million increase in direct investments since that
20 regulation became effective in '85.

21 A Uh-huh.

22 Q Don't you think that with more frequent

1 reviews of the status of these investments that
2 things could have been prevented?

3 A In hindsight, yes. But there's a lot of
4 things I'd do differently in hindsight. I mean --

5 Q You'll admit, then, by waiting until you
6 received the report in 1986 that a lot of time had
7 passed and things that occurred could not be
8 prevented?

9 A These people violated the act willfully.
10 That's what had happened, but you don't assume that
11 everybody is a crook out there. You have to assume
12 that people are honest. If we knew these people were
13 crooks and were going to cause a loss to us, we could
14 have done a lot of things differently.

15 Q Well, putting aside whether or not they
16 were crooks, you knew that from 1984, the beginning
17 of 1984 throughout the balance of '84 and '85, these
18 people kept promising increases in net worth and
19 changing their position and they were doing nothing
20 about it. So they weren't -- at a minimum, they
21 weren't upholding their agreements to straighten out
22 their net worth?

1 A That's right, but you have to give them
2 time to comply with those agreements, and I think we
3 did and when we found out, we took the appropriate
4 action.

5 MR. COLE: When you say they were doing
6 nothing about it, you mean the preferred stock and
7 the other proposals they were setting forth?

8 THE WITNESS: Which we set a time frame to
9 meet and after they didn't meet it, they issued a
10 cease-and-desist letter.

11 BY MR. GICALE:

12 Q As you earlier stated, you did not think
13 that the preferred stock would go anywhere?

14 A No, but I hoped it would.

15 MR. GICALE: I have nothing further.

16 MR. COLE: I have nothing further.

17 (Whereupon, at 5:23 p.m., the deposition
18 was concluded.)
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

A handwritten signature in cursive script that reads "Julie Baker". The signature is written in dark ink and is positioned above a horizontal line.

Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 30, 1997

**DEPOSITION OF LISA CAPUTO
IN RE: S. RES. 120**

THURSDAY, DECEMBER 21, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of LISA CAPUTO, called for examination pursuant to notice of deposition, at 2:05 p.m. in Room 538 of the Dirksen Senate Office Building, before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
DAVID M. LUNA, Esq.
Minority Law Clerk
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

WILLIAM W. TAYLOR III, Esq.
LESLIE M. BERGER, Esq.
Zuckerman, Spaeder, Goldstein, Taylor & Kolker
1201 Connecticut Avenue, NW
Washington, DC 20036
On behalf of the Deponent.

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1 PROCEEDINGS
2 COMMITTEE CONFIDENTIAL

3 MS. FISHER: On the record.

4 Hi, Ms. Caputo. My name is Alice Fisher.

5 I am Deputy Special Counsel for the Majority.

6 To my left is Neal Kravitz who is Deputy
7 Special Counsel for the Minority; and David -- and I am
8 sorry, I did not catch your last name?

9 MR. LUNA: Luna.

10 MS. FISHER: Luna, who also works for the
11 Minority.

12 This deposition is being conducted
13 pursuant to Senate Resolution 120. The Resolution
14 establishes a Special Committee administered by the
15 Banking Committee to conduct an investigation
16 involving Whitewater Development Corporation, Madison
17 Guaranty Savings & Loan and other related matters.

18 Section 1(b)(2) of the Resolution
19 authorizes investigation and public hearings into
20 several issues which will be the focus of today's
21 deposition.

22 I do not know whether you are familiar

1 with this, or you have seen a copy [referring to the
2 Resolution].

3 MS. CAPUTO: I have not.

4 (Handing document to the witness.)

5 MS. FISHER: Do you want to look at a
6 copy? Counsel also has a copy.

7 (Pause.)

8 (Discussion off the record.)

9 MS. FISHER: This deposition is being
10 conducted in advance of public hearings which may
11 start again in January. At this time I have no idea
12 whether you will be called to testify.

13 I will ask you a series of questions and
14 ask that you testify under oath. If you do not
15 understand a question, please let me know and I will
16 rephrase it.

17 If you need a break or you would like to
18 consult with counsel, just let me know.

19 The Stenographer will prepare a record of
20 the questions and answers, and the deposition will be
21 treated as Committee Confidential until the
22 commencement of public hearings.

1 Prior to the public hearings, you will
2 receive a letter letting you know that you can come
3 to the Senate and review your transcript, if you
4 would like, and make any changes, fill out an errata
5 sheet for any typographical or other errors.

6 I see that you are represented by counsel.
7 If you would like to state an appearance for the
8 record?

9 MR. TAYLOR: William Taylor and Leslie
10 Berger.

11 MS. FISHER: Objections to the form of the
12 questions will be noted for the record. Counsel may
13 object on the grounds of privilege or relevance, and
14 if you do so the Committee Chairman may be called to
15 rule on any objection.

16 Would you please swear in the witness?

17 (Witness sworn.)

18 Whereupon,

19 LISA CAPUTO

20 was called for deposition in the above-entitled
21 matter and, having been first duly sworn by the
22 Notary Public, was examined and testified as follows:

6

1 EXAMINATION

2 BY MS. FISHER:

3 Q Could you state your name for the record?

4 A Lisa Caputo.

5
6
7 Q Could you state what your employment
8 position was between January 1993 and February 1994?

9 A Deputy Assistant to the President, and
10 Press Secretary to the First Lady at the White House.

11 Q Was that your title throughout that
12 period?

13 A Yes.

14 Q Is it correct that you also worked on the
15 1992 Presidential Campaign for President Clinton?

16 A Yes.

17 Q And what was your title there?

18 A Press Secretary to the First -- to Hillary
19 Rodham Clinton.

20 Q Who did you report to on the campaign?

21 A I reported to Mrs. Clinton.

22 Q And in your position now, who do you

1 report to?

2 A I report to Maggie Williams, the Chief of
3 Staff, and to Mrs. Clinton.

4 Q Are you aware of the Committee's document
5 request served on the White House?

6 A Yes.

7 Q Were you asked to -- were you or your
8 counsel asked to look for responsive documents?

9 A Yes.

10 Q And do you know of any documents that were
11 responsive that were not produced to the Committee?

12 A No, I do not.

13 Q Did you speak to anyone other than your
14 counsel prior to this deposition about the
15 deposition?

16 A No.

17 Q Am I correct, Ms. Caputo, that you didn't
18 work on any Whitewater-related matters when you were
19 working on the 1992 Presidential Campaign?

20 A Yes, that's correct.

21 Q I want to show you some notes that were
22 produced to the Committee by the White House and just

1 basically ask you to go through them with me -- not
2 that I can't read them, that they're illegible or
3 anything, but they are a little bit hard to read.

4 I am sorry for that, that I can't read
5 them, but is that your handwriting? Are those your
6 notes?

7 (Document shown to the witness.)

8 A Yes.

9 MR. KRAVITZ: Could you identify what you
10 are asking her about?

11 MS. FISHER: It is S12394.

12 BY MS. FISHER: (Resuming)

13 Q Do you recall the time around which you
14 took these notes?

15 A Can I consult with counsel for a second?

16 Q Absolutely.

17 (Discussion off the record.)

18 THE WITNESS: This was in the Fall of
19 1993.

20 BY MS. FISHER: (Resuming)

21 Q Do you know about what month?

22 A I believe sometime around November.

1 Q Do you recall the circumstances under
2 which --

3 A I can't, you know, reconstruct sitting
4 here; it was a long time ago; but I remember that at
5 the time there were questions coming in from the
6 media, and I as the press secretary was just trying
7 to assemble some kind of context on what was going
8 on.

9 Q What were the questions that you recall?

10 A Pertaining to this?

11 Q Pertaining to those notes, yes.

12 A This had to do with an inquiry from
13 someone at The New York Times about -- I'd have to see
14 the documents, which I'm sure you probably have, that
15 goes with this.

16 Q What do they look like?

17 Could you describe what it is?

18 A It's a request from The New York Times; an
19 inquiry from The New York Times.

20 Q This one?

21 (Handing document to the witness.)

22 A Gottcha; okay.

10

1 Q So that is document -- does this also go
2 with this? They weren't produced in this order.

3 A That (indicating), this (indicating), this
4 (indicating), and this (indicating).

5 Q Do you know what order they go in?

6 A Well, I don't know that there's a specific
7 order, but --

8 Q They're all together?

9 A It all pertains to the same thing, which
10 is this (indicating).

11 Q Okay.

12 So that's S12445, 446, and 444.

13 A Right.

14 Q And they go with S12394.

15 A So you know, this (indicating) is like
16 this (indicating). It's front, back; front, back.
17 So it's like this (indicating).

18 Q Okay. Let's just state that for the
19 record.

20 S012444 is the front page dated 11/1/93,
21 with S12394 being the back page.

22 And S12445 dated 11/1/93 is the front page

1 of a document that's S012446 is the back page.
2 And all four of these documents pertain to
3 the same thing?

4 A Yes.

5 Q And is this --

6 A That's my recollection.

7 Q -- is S12445 what started this inquiry
8 where you were taking these notes?

9 A Yes.

10 Q The question from The New York Times?

11 A As best I can remember.

12 Q Okay. Just in general, can you tell me
13 what your understanding of this issue was at this
14 time? Was this the first that you had heard of this
15 issue?

16 A This document, S021445 reflects a phone
17 message taken from one of my deputy press secretaries
18 from Jeff Girth of The New York Times.

19 Q Okay. So this is not your handwriting?

20 A No, it's not.

21 Q And what are the initials that appear on
22 the bottom?

1 A NL.

2 Q And who is NL?

3 A Neal Lattimore, one of my deputy press
4 secretaries.

5 Q Could you just read the context of the
6 note, if you can?

7 A Jeff Girth, New York Times, 8620345, has
8 question HRC representing Madison Guaranty. HRC met
9 with James McDugal to discuss case she was presenting
10 before the State of Arkansas regarding a stock option
11 for Madison Guaranty.

12 Did HRC discuss retiring campaign debt
13 with McDugal in relation with her work with Madison
14 Guaranty that she was doing for McDugal with BC?

15 HRC was asked about this during the
16 campaign.

17 Q Is this -- and these are dated 11/1/93 -- as
18 of November 1, 1993, were you aware that Mrs. Clinton
19 had done work while she was at the Rose Law Firm for
20 Madison Guaranty?

21 A I don't have any specific memory of when I
22 learned Mrs. Clinton had done work for Madison

1 Guaranty at the Rose Law Firm.

2 Q Do you have any sense of whether, when you
3 received this question, you had some sense of that?

4 A I don't believe I did, because I didn't
5 know really anything at all about Madison Guaranty or
6 the Whitewater matter.

7 Q After you received these questions from
8 Mr. Girth, did you attempt to go collect the
9 information to respond to them?

10 A I believe I did.

11 Q And are those your notes in the margin
12 over there?

13 A Yes.

14 This was me trying to clarify what the
15 reporter had called to ask about, was me clarifying
16 with the deputy press secretary.

17 Q Can you just read those?

18 A I did when I -- "Did HRC discuss retiring
19 campaign debt with McDugal?"

20 "In relation with her work with Madison
21 Guaranty, the work that she was doing for McDugal,
22 with BC"

1 Q Okay, I see.

2 A That's also my writing right there "for
3 Madison Guaranty."

4 Q Do you recall, after receiving these
5 questions did you discuss these questions with Mrs.
6 Clinton?

7 A I have no memory of having a conversation
8 with Mrs. Clinton about this, sitting here today.

9 Q At any time?

10 A Pertaining to the Jeff Girth question?

11 Q Well, pertaining to the work that Mrs.
12 Clinton did while she was at the Rose Law Firm for
13 Madison Guaranty.

14 A In what time frame?

15 Q Well why don't we start with the Fall of
16 1993.

17 A I don't recall having a conversation with
18 her about that in the Fall of 1993, sitting here
19 today.

20 Q How about early 1994?

21 A Let me say that the first memory I have
22 would be preparing Mrs. Clinton for her April 1994

1 press conference. But beyond that, I just have no
2 memory of a specific conversation.

3 Q When you received these questions, did you
4 discuss them with Maggie Williams?

5 A Not that I recall.

6 Q Did you discuss these questions with Bruce
7 Lindsey?

8 A I do believe I did do that.

9 Q Okay. And is that conversation reflected
10 in your notes on 012446?

11 A Yes.

12 Q And do you recall whether this was the
13 same day that you spoke to Mr. Lindsey that you
14 received this note?

15 Would it have been 11/1/93?

16 A Yes, I believe it was.

17 Q Okay. Could you just slowly read those
18 in?

19 A It says "Bruce Lindsey" at the top.

20 "Did HRC meet with McDugal? Did she
21 discuss with BC? If not, what is right answer? HRC
22 never discusses clients with any member of the

1 family."

2 Q Let me stop you there.

3 Is this Mr. Lindsey telling you something
4 that you're writing down? Or is this you writing
5 down your questions for Mr. Lindsey?

6 A I don't remember the conversation,
7 specifically. I don't even remember making the
8 notes.

9 I can only say that -- I can speculate that
10 what I probably did was look at the request from the
11 reporter and pull his two questions out and put them
12 at the top of the page to ask Bruce Lindsey.

13 Q How did you know that Bruce Lindsey, or
14 why did you contact Bruce Lindsey rather than someone
15 else in the White House?

16 A Because Bruce Lindsey was the person that
17 I would look to who had a knowledge of this matter
18 and would respond to press inquiries on this matter.

19 Q Madison matters?

20 Or are you talking about like Arkansas-
21 related matters, or --

22 A I'm talking Whitewater matters and

1 Arkansas matters, as well.

2 Q Okay. So if you could just keep reading.

3 A "Not sure HRC ever met with MD."

4 Q And "MD" would be McDugal?

5 A Yes.

6 Q And do you believe that this is what Mr.

7 Lindsey was telling you?

8 A Again, sitting here, this was two years

9 ago. I have no memory of this conversation. I

10 can't -- I have no picture in my mind. I can only say

11 that that would indicate to me that that is what the

12 notes reflect.

13 Q Do you believe that this was a telephone

14 conversation that you had with Mr. Lindsey, or maybe

15 a meeting?

16 A I would guess it was a telephone

17 conversation.

18 Q Okay.

19 A "Rose Law Firm hired by Madison Guaranty

20 to try and approve some form of stock in order to

21 raise additional capital. An associate did most of

22 all the work to request to securities company. HRC

18

1 signed the letter. Has no idea of any conversations
2 between HRC and MD."

3 Q Now if I could just stop you there, I
4 understand that it is hard to recollect, but given
5 the fact that you do not believe that you knew of
6 these matters prior to the time you received this
7 inquiry, do you think that Mr. Lindsey was telling
8 you that he has no idea, or whatever that says, or
9 no -- or was it Mrs. Clinton telling Mr. Lindsey that
10 was telling you that there was no recollection?

11 A I don't know. This just reflects to me a
12 conversation I had with Bruce Lindsey.

13 March 20, 1922, Washington Times:

14 "HRC received \$2000 from Madison Guaranty.

15 1984, Clintons were partners in

16 Whitewater. Under investigation for being

17 insolvent. HRC did not intervene, was not

18 attorney of record -- Washington Times.

19 HRC's name mentioned in two letters from

20 Rose Law Firm. 1985, April and May, Rose

21 Law firm was trying to convince State

22 Securities Board to allow [sic] at some

1 fund raiser being held. Bruce Rich Massey
2 did all the work."

3 Q All right, let's just set this aside for a
4 second.

5 Did you do anything else to follow up on
6 these questions that you received from Mr. Girth?

7 A I think I then had a conversation with Jim
8 Lyons.

9 Q And who is Mr. Lyons?

10 A A Denver attorney.

11 Q Did you know Mr. Lyons prior to November
12 1993?

13 A Yes.

14 Q What was your relationship with Mr. Lyons?
15 Or how did you know him?

16 A I knew him as an associate of Senator Tim
17 Wirth for whom I worked prior to joining the Clinton
18 Campaign.

19 Q And did you occasionally call Mr. Lyons
20 regarding press inquiries that you received at the
21 White House?

22 A Pertaining to?

1 Q Pertaining to anything.

2 Was this a normal thing for you to do to
3 call Mr. Lyons? Or was there a particular reason why
4 you called him on this occasion?

5 A Bruce Lindsey and Jim Lyons were the two
6 people I would call if I had an inquiry pertaining to
7 the Whitewater matter because I didn't know anything
8 about it.

9 Q Okay.

10 A And oftentimes I would refer reporters to
11 them because I didn't know anything about the matter.

12 Q Refer reporters to either to Mr. Lindsey
13 or to Mr. Lyons?

14 A Unusually -- right. Yes.

15 Q Was it your understanding that Mr. Lyons
16 would normally field press calls on behalf of the
17 White House?

18 A I don't think Mr. Lyons was fielding press
19 calls on behalf of the White House, but he was
20 someone who had knowledge from dating back to the
21 campaign about the Whitewater matter, and I know that
22 he would receive press inquiries independently on the

1 Whitewater matter.

2 Q So to the best your recollection, was this
3 the first time that you called Mr. Lyons regarding an
4 issue that came up with the press in your job while
5 at the White House?

6 A I don't know if it was the first time.
7 Again, this was two years ago.

8 MR. TAYLOR: That is not the question.
9 The question is, if this was the first time.

10 THE WITNESS: I don't know if it was.

11 BY MS. FISHER: (Resuming)

12 Q Okay. Could you continue?

13 A "Jim Lyons, 11/1/93. McDugal version, BC
14 and HRC solicited business from him.

15 "Version B: Younger associate at Rose law
16 firm brought in this client. Present plan to
17 Securities Commission."

18 Q Could I stop you just right there?

19 Do you have a recollection of having this
20 conversation with Mr. Lyons, independent of your
21 notes?

22 A No.

22

1 Q Do you have an understanding of whether he
2 was explaining to you two different sides of the
3 story, where he calls them "version A and version B"?

4 They seem to be conflicting versions and
5 what I am trying to get at is: What is your best
6 recollection of what he was referring to? Whose
7 stories?

8 A My best recollection is that there are two
9 versions. One is Mr. McDugal's version, and the
10 other is the Clinton or White House version.

11 Q Do you have a recollection of where Mr.
12 Lyons received this information?

13 A No.

14 Q Okay. If you could just go on.

15 A "Number one: Offer preferred stock,
16 number two, to allow holding company to engage in
17 certain brokerage activities. Letter written to
18 securities commissioners, cc'd to HRC. HRC said
19 never spoke to securities commissioner, and she
20 confirmed it. HRC role, at best, was to monitor.
21 Only got copy of letter. No involvement meetings on
22 behalf of Madison before that agency or any agency

1 where her husband appointed a head of an agency."

2 Q To the best of your recollection, is this
3 Mr. Lyons giving you information that you are then
4 taking down in your notes?

5 A This seems to me to reflect Mr. Lyons
6 telling me this, which I then wrote down.

7 Q Okay. Okay. And then is there something
8 on the back that also pertains to this?

9 A This reflects, as best I can remember, a
10 phone conversation I had with Betsy Wright.

11 Q Who is Betsy Wright?

12 A Betsy Wright was former chief of staff to
13 former Governor Clinton.

14 Q Do you know what Mrs. Wright's, or Ms.
15 Wright's position is at this time? Is she a member
16 of the White House?

17 A No.

18 Q Is she in Washington, or Arkansas?

19 A I think she is in Washington, but I am not
20 exactly sure where.

21 Q Is she in the Administration?

22 A No, I don't believe she is.

1 Q But this is a Washington number, you
2 believe, this 662 number?

3 A Yes.

4 Q And prior to this conversation with Ms.
5 Wright, did you know her --

6 A Yes.

7 Q -- prior to this time?

8 And how did you come to know Ms. Wright?

9 A In the 1992 campaign.

10 Q Do you believe that on your own initiative
11 you called Ms. Wright? Or did Mr. Lindsey or Mr.
12 Lyons tell you to call her?

13 A I can't remember.

14 Q Did you generally call Ms. Wright for
15 inquiries of this nature?

16 A It wouldn't be out of the ordinary for me
17 to call Betsy Wright about matters pertaining to
18 Arkansas because she was viewed as an institutional
19 memory for matters involving Arkansas, as the
20 Governor's former chief of staff.

21 Q Did she also have a relationship with Mrs.
22 Clinton?

1 A I don't know what their relationship was,
2 other than I am sure they were friends.

3 Q The only reason I asked is that these
4 matters seemed to be matters involving inquiries
5 about Mrs. Clinton's role, and I was just wondering
6 how it was that it would come to you to call Ms.
7 Wright about this.

8 A Again, as I say, someone may have said why
9 don't you call Betsy, but it also wouldn't be out of
10 the ordinary to pick up the phone and call Betsy
11 because she was an institutional memory for Arkansas
12 matters.

13 Q Did she come to the White House often in
14 1993?

15 A I don't remember ever seeing her at the
16 White House.

17 Q Could you just read your notes there?

18 A Sure.

19 "HRC not involved in the fund raiser.
20 There was no connection between the work done for
21 Madison Guaranty by the Rose Law Firm and the Clinton
22 Campaign.

1 "Mrs. Clinton has no recollection of, does
2 not recall having conversations with Mr. McDugal
3 about campaign debt."

4 Q And to the best of your recollection, this
5 is Ms. Wright giving you information that you are
6 then taking down in your notes?

7 A Yes.

8 Q Did you discuss at these times with Mrs.
9 Clinton your conversation with Ms. Wright, Mr.
10 Lindsey, or Mr. Lyons?

11 A I have no memory of having a conversation
12 with her about this.

13 Q Do you have a memory of speaking to anyone
14 else about these matters at that time in this
15 November time frame?

16 A No.

17 Q Anyone from the White House counsel's
18 office?

19 A No.

20 Q Was there anyone in the White House
21 counsel's office that generally helped to field
22 Whitewater or Madison-related questions in the fall

1 of 1993?

2 A No.

3 Q Did you at any time other than the press
4 conference in April of 1994, did you at any time
5 discuss these matters with David Kendall?

6 A During this time period?

7 Q Yes -- well, other than preparing for the
8 press conference which you have already testified
9 to.

10 A Not that I remember specifically.

11 Q Did you, after these three
12 conversations, feel that you had gotten a definitive
13 answer to Mr. Girth's question about Mrs. Clinton's
14 meeting with Mr. McDugal to discuss the preferred
15 stock deal?

16 A All I remember about this is getting the
17 inquiry, getting what I could as far as a context,
18 and then, I don't know if I returned the call to
19 Girth, or Bruce Lindsey did, or Betsy Wright did. I
20 don't know what then happened.

21 So I get scores of press inquiries every
22 day, and I just could not tell you sitting here now

1 who called Jeff Girth back.

2 Q Did you in your own mind have a definitive
3 answer to that question in the fall of 1993, whether
4 there was a meeting between Mrs. Clinton and Mr.
5 McDugal?

6 A Again, I was not a person within the White
7 House who was a spokesperson on these kinds of
8 matters. What I was doing here was just trying to
9 get a context.

10 I do not think that, you know, beyond
11 that, as I say, I don't know if I called Jeff Girth
12 back or someone else did to talk to him more at
13 length.

14 I would be inclined to think someone else
15 probably did because I just didn't know anything
16 about this.

17 Q Well as we sit here today, what is the
18 extent of your knowledge about whether Mrs. Clinton
19 met with Mr. McDugal to discuss the preferred stock
20 deal?

21 A What I know is what is indicated in these
22 notes, more or less, and also what Mrs. Clinton said

1 in her press conference in April of 1994.

2 Q And other than that you have no other
3 knowledge?

4 A No.

5 Q The second question, did Mrs. Clinton
6 discuss retiring the campaign debt with
7 Mr. McDugal?

8 As we sit here today, did you ever receive
9 an answer to that question?

10 A I think that is the Betsy Wright answer.

11 Q That is, that Mrs. Clinton was not
12 involved in the fund raiser?

13 A Correct.

14 Q Did you ever receive any information that
15 was inconsistent with that?

16 A No.

17 Q Did you ever discuss that with Mrs.
18 Clinton?

19 A Not that I remember.

20 Q How about when you were preparing Mrs.
21 Clinton for her April press conference? Did you
22 discuss that?

1 A I don't remember it specifically coming up
2 then. It may have. Sitting here I have no memory of
3 it specifically coming up.

4 Q As we sit here today, what is the extent
5 of your knowledge about work that the Rose Law Firm
6 did for Madison Guaranty?

7 A The extent of my knowledge is that it was
8 minimal work that a young associate did.

9 Q Other than the preferred stock offering
10 that is discussed in these notes, or discussing this
11 question from Jeff Girth, are you aware of any other
12 work that the Rose Law Firm did for Madison Guaranty?

13 A No.

14 Q Did you ever discuss that with Mrs.
15 Clinton?

16 A Her --

17 Q The work that she did for Madison.

18 A I remember it coming up in preparation for
19 her press conference in April of 1994.

20 Q This would be the press conference of
21 April 23, 1994?

22 A Yes.

1 Q The White House has produced a document
2 which is a transcript of that press conference. It
3 is Bates No. S012453 to S012478.

4 And I am correct that you helped prepare
5 Mrs. Clinton for this press conference?

6 A Yes.

7 Q Who else helped prepare Mrs. Clinton for
8 this press conference?

9 A David Kendall, Maggie Williams, Anne
10 Lewis, Mandy Grimwald.

11 Q Who is Anne Lewis?

12 A Anne Lewis is, at present I believe,
13 Deputy Campaign Manager for Clinton-Gore '96.

14 Q And who is Mandy Grimwald?

15 A She is a consultant who has her own
16 business in Washington.

17 I should also mention that Lloyd Cutler
18 was present, as well.

19 Q Did you take any notes during that prep
20 session?

21 A I prepared a briefing book. There was
22 more than one session.

1 Q How many sessions?

2 A I don't remember.

3 Q Do you still have a copy of this briefing
4 book?

5 A Yes.

6 Q Do you know whether it was produced to the
7 Committee?

8 A I produced it to my lawyers.

9 MS. FISHER: Can we go off the record for
10 a second?

11 (Discussion off the record.)

12 MS. FISHER: On the record.

13 BY MS. FISHER: (Resuming)

14 Q Do you recall discussing at the prep
15 sessions for the April 22, 1994, press conference
16 matters related to the Rose Law Firm and Madison
17 Guaranty?

18 A Yes.

19 Q And what do you recall about those
20 discussions?

21 A I just recall that I remember Mrs. Clinton
22 saying what she said in her press conference about

1 the Rose Law Firm's representation of Madison.

2 Q What is your independent recollection of
3 what was said at the meeting?

4 A Just that a young associate in the firm
5 wanted to help, or had a friend at Madison and they
6 wanted to obtain a legal opinion about something
7 pertaining to preferred stock; and, that Mrs. Clinton
8 who was a partner just kind of signed the letters for
9 the associate because that was the practice in the
10 firm, and that there was minimal work done.

11 Q Did Mrs. Clinton state at that briefing
12 session whether she had had conferences with Members
13 of the Bank?

14 A No.

15 Q Did she say that she had not?

16 A I never heard her say anything about
17 conferences.

18 Q Did Mrs. Clinton say whether she had any
19 conferences, or meetings, or telephone conversations
20 with members of the Arkansas Securities Commission
21 relating to the preferred stock deal?

22 A No.

1 Q Did she says that she did not?

2 A She never said anything about it.

3 Q Did Mrs. Clinton state at the briefing
4 sessions who brought in Madison as a client to the
5 Rose Law Firm?

6 A Again, I only remember her talking about
7 some "young associate" in her firm.

8 Q Did she state whether he was the one that
9 brought the client in?

10 A That's my vague memory of it, yeah.

11 Q And to the best of your recollection, she
12 didn't state that she had done other work for Madison
13 Guaranty while at the Rose Law Firm?

14 A Not that I remember.

15 Q And you were present at her press
16 conference?

17 Is that correct?

18 A Yes.

19 Q And at her press conference she was asked
20 some questions about Madison.

21 Do you recall that?

22 A Vaguely.

1 Q And you remember the answers that she
2 gave, not independently, but you remember listening
3 to the answers that she gave at the press conference
4 related to Madison?

5 A I remember sitting there listening to the
6 Q and A.

7 Q Do you recall thinking that there was
8 anything that she had stated relating to these
9 matters that was inconsistent with what you had
10 learned in your prep sessions?

11 A No.

12 Q Do you recall her saying that the young
13 attorney and the young bank officer did all the work
14 on the deal?

15 A Yes, I do.

16 MR. KRAVITZ: What are you referring to?

17 MS. FISHER: I am referring to 12467, in
18 response to a question relating to Madison. I can
19 let you look at it. I didn't want to have to read
20 through the whole thing.

21 THE WITNESS: That's all right.

22 MS. FISHER: If you're familiar with it.

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1 BY MS. FISHER: (Resuming)

2 Q So at the time you heard her say that the
3 young bank officer and a young associate did all the
4 work, do you recall -- I guess, according to your
5 previous testimony, you did not believe that that was
6 inconsistent with anything you had learned prior to
7 that time?

8 A That's correct.

9 It was consistent with what I had heard
10 her say in the past.

11 Q Do you recall ever learning any
12 information relating to the amount of time Mrs.
13 Clinton billed to Madison while at the Rose Law
14 Firm?

15 A I have some vague recollection of Mrs.
16 Clinton saying it was "minimal work." The specific
17 amount of time, I have some memory of David Kendall
18 indicating, you know, it was minimal work; minimal
19 time; minimal time spent, sorry. Minimal time
20 spent.

21 Q Do you have any idea of what exactly that
22 meant, "minimal time"? --

1 A No, I --

2 Q -- in relation to what "minimal" means?
3 Do you have a general idea of what that
4 would mean?

5 A No.

6 MR. TAYLOR: You're satisfied that it
7 would be different from "maximum"?

8 (Laughter.)

9 THE WITNESS: Literally? Yes.

10 BY MS. FISHER: (Resuming)

11 Q In relation to -- do you recall knowing how
12 many months, for example, this matter had been worked
13 on by the Rose Law Firm?

14 A No. If I can maybe clarify for you --

15 Q I would love that.

16 A -- to me what was indicated to me was it
17 was so small that it was like not even on anybody's
18 radar screen.

19 It was minimal.

20 (Pause.)

21 Q On 02394, which are notes of your
22 conversation with Betsy Wright, it indicates,

38

1 in quotes, that "there was no connection between
2 the" --?

3 A -- "the work done from Madison Guaranty by
4 the Rose Law Firm and the Clinton Campaign."

5 Q At any time following your conversation
6 with Ms. Wright, did you learn anything that was
7 inconsistent with that statement?

8 A No.

9 Q The White House also produced a document,
10 S012395, to S012419, and I'm not positive it is the
11 same document, but it all relates to conflict of
12 interest matters in the Rose Law Firm.

13 MR. KRAVITZ: Could you say those numbers
14 again?

15 MS. FISHER: It is 12395 to 12419.

16 MR. KRAVITZ: Thanks.

17 BY MS. FISHER: (Resuming)

18 Q The first document is a memo from Neal
19 Egelston to Harold Ickes dated February 28th, 1994.
20 Would those be your initials in the corner?

21 A Yes.

22 Q Do you recall receiving this memo?

- 1 A No.
- 2 Q Do you recall any of the circumstances
3 surrounding these matters?
- 4 A No.
- 5 Q Did you have any involvement in attempting
6 to answer press inquiries relating to the Rose Law
7 Firm conflict of interest?
- 8 A No, I really didn't.
- 9 Q The White House has also produced another
10 document, S012420, dated 10/4/93.
- 11 Are these your notes?
- 12 A Yes. My notes are surrounding the
13 middle.
- 14 Q Okay.
- 15 A These are me -- This (indicating) is me.
- 16 Q Okay. Is the middle a message?
- 17 A The middle is a message that was given
18 to me.
- 19 Q Who is Loretta Lynch?
- 20 A I don't really know.
- 21 Q Do you recall speaking to Ms. Lynch?
- 22 A No, I don't.

- 1 Q On the top it says "Bruce Lindsey".
2 Do you recall why his name is on the top
3 of your notes?
- 4 A Again, I don't have -- I can reconstruct if
5 I want to speculate. I don't have a clear picture,
6 but this, as best I can remember, indicates a
7 conversation I had with Bruce Lindsey in October of
8 '93.
- 9 Q Do you recall how this conversation came
10 about, or what prompted it?
- 11 A Again, as best I can remember, I know that
12 there were press inquiries at that time about
13 Whitewater Development. And so --
- 14 Q Do you recall what the press inquiries
15 pertained to, specifically?
- 16 A No.
- 17 Q Do you recall whether this was the first
18 conversation you had with Mr. Lindsey regarding
19 Whitewater-related press inquiries?
- 20 A It may have been.
21 Again, I can't be sure.
22 I may have had another -- because I get a

1 lot of press inquiries -- I would say it might be
2 better said it was probably one of the first, if not
3 the first, but I can't be sure. I just don't
4 remember.

5 Q Generally in this time frame when you
6 received an inquiry relating to Whitewater, or
7 Madison, or some Arkansas-related issue, would you
8 first go to Mr. Lindsey to discuss the inquiry? Or
9 would you first go to Mrs. Clinton?

10 A I would usually just call Bruce Lindsey.

11 Q Okay. Generally you would just call Bruce
12 Lindsey, meaning you would call Bruce Lindsey and not
13 call Mrs. Clinton? Or --

14 A Again, I was not someone from a "press
15 secretary" standpoint in the White House who dealt
16 with press inquiries pertaining to Whitewater.

17 So when I would get them, I would try and
18 get a context so that I would not be blindsided when
19 the calls came in, and then usually refer then to
20 Bruce.

21 Q Did you ever discuss these matters, any
22 Whitewater-Madison related matters, with Mrs. Clinton

1 in the Fall of 1993?

2 A I have no specific, you know, memory. I
3 may have had, you know, asked her a question to track
4 down a fact, but I can't point to any kind of, you
5 know, independent conversation I would have had.

6 Q Under the notes right here it says "HRC,"
7 so this would not reflect a conversation that you had
8 with Mrs. Clinton? Or?

9 A I believe this reflects a conversation
10 with Bruce Lindsey that I had where he's walking me
11 through reporters' angles of stories about Whitewater
12 at this time, and he was educating me on sort of what
13 was going on.

14 Q Why then does it say "HRC," then?

15 A Again I think that this -- to me, it
16 reflects Bruce Lindsey saying to me this is what Mrs.
17 Clinton --

18 Q Has said?

19 A -- thinks, or, I don't know.

20 Q So generally it would be Mr. Lindsey who
21 would speak to Mrs. Clinton about these matters?

22 A I don't know that there's a general

1 practice. All I can say is on this, this would --
2 looking at this, and I don't really remember this
3 conversation, per se, but this indicates to me Bruce
4 is educating me about the different pieces of this;
5 and that this is what Mrs. Clinton thinks.

6 Then he goes on and explains that this is
7 where the reporter is going.

8 Q Okay. Would you just read them for me?

9 A "HRC. We sold Whitewater interests we had
10 last year. Part of sales agreement, we agreed to
11 give them records, VF knew, copies of records.

12 Q And the "VF" is?

13 A Vince Foster.

14 Q Vince Foster. And can you explain to me
15 what that means, or at the time what you recollect
16 that meaning?

17 A I mean, looking at it it just means to me
18 that the Clintons sold the Whitewater interests they
19 had. And as part of the sales agreement, they agreed
20 to give them -- whoever "them" is -- the records. And
21 Vince Foster knew, and there were copies of the
22 records.

1 Q Is that that Mr. Foster had copies of the
2 records?

3 A I don't -- these are just notes. It's not
4 something I remember vividly at all. It's just not.
5 I'm just looking at the notes and trying to give you
6 my best semblance of it.

7 Q Which is all you can do, and I appreciate
8 that.

9 A I am sorry, I just can't --

10 Q You're going to remember more than anyone
11 else, since you took the notes.

12 Could you go on?

13 A Then it goes down: "Not indicted. Self-
14 medicated on Prozac. Lost \$70,000 'cause stupid,
15 and pumped money into this thing because McDugal
16 friend of Bill's."

17 Q Could you give me any context to
18 that?

19 A I think it -- I mean, again I think that
20 this pertains to Bruce relaying to me what Mrs.
21 Clinton may have said or may have indicated to him
22 that "not indicted" and "self medicated on Prozac,

1 they lost \$70,000" I'm assuming in a land deal
2 because they were stupid and pumped money into the
3 thing because McDugal was a friend of the
4 President's.

5 Q What does "not indicted" refer to?

6 A I -- I don't really -- I don't -- I mean I don't
7 really know.

8 Q Does that refer to Mr. McDugal?

9 A It could be, but I don't -- again, I don't --
10 it could be.

11 Q Do you recall at the time being told that
12 the Clintons lost \$70,000 in Whitewater?

13 A I don't remember when I heard that they
14 lost \$70,000 in the land deal. I don't know if this
15 was the first time. I mean, I do remember hearing
16 that.

17 Q Do you recall hearing that during the
18 campaign?

19 A No.

20 I didn't even hear about Whitewater really
21 at all during the campaign.

22 Q Do you recall learning about a Lyons'

1 report that was done?

2 A Yeah.

3 Q Which outlined the Clintons' investment in
4 Whitewater?

5 A Yes.

6 Q And do you recall that there were later
7 allegations that the Lyons' report was incorrect;
8 that it overstated the Clintons' investment in
9 Whitewater?

10 A I remember reading about it in the paper,
11 but --

12 Q -- but not having any discussions about it
13 with anyone?

14 A No.

15 Q Okay. Could you -- where do the notes go
16 from there?

17 A Then they go to Mike Isakoff and I -- this
18 is Bruce talking to me about Mike Isakoff who was a
19 reporter for The Washington Post.

20 He is then indicating to me what Mike
21 Isakoff is doing. In other words, what was his
22 angle, what was his story he was working on. It says

1 "Jim Lyons, John Tisdale checking out facts; check
2 records. Hale got them looking again. Telephone
3 call or two back to D.C. in July. Tipoff to FDA
4 investigation link --"

5 Q If I could stop you there, "Hale" refers
6 to David Hale?

7 A I guess so, yeah.

8 Q Do you recall learning anything about this
9 "telephone call or two back to D.C. in July"? Was
10 that a call from David Hale to D.C.?

11 A I -- the way I -- again, I mean I think this
12 is -- Bruce is telling me what Mike Isakoff is doing.
13 And the way I interpret it is that either Mike
14 Isakoff indicated to Bruce that -- I don't know the
15 "telephone call or two back to D.C. in July"; I don't
16 know what that specifically means, other than it's in
17 the context of Mike Isakoff working on a story.

18 Q Did you ever learn about any calls that
19 David Hale had made back to D.C. in July or any other
20 time that summer of '93?

21 A No.

22 Q Or anyone on his behalf?

1 A No.

2 Q Did you ever learn of any contacts that
3 David Hale or anybody on his staff had made to anyone
4 at the White House in 1993?

5 A No.

6 Q Okay.

7 A Then it goes: "Knows Jim Lyons" --

8 Q So we're going over to the left-hand
9 margin?

10 A Yeah. Let me think.

11 "Knows Jim Lyons talked to Vince Foster
12 the night before he died. Either Lisa Foster or Park
13 Police records. Coverup related to Foster suicide."

14 Q Do you recall learning that Jim Lyons
15 spoke to Mr. Foster, as it says, the day before he
16 died?

17 A Yes.

18 I don't think I knew anything about that
19 until I read it in the paper. I think it was in the
20 paper.

21 Q But you recalled that Mr. Lindsey was
22 telling you that this was the story that the

1 reporters were filing?

2 A Correct.

3 Q Did you at that time ask any
4 questions about Mr. Lindsey's knowledge about that
5 thought?

6 A No.

7 "RTC claims versus marketing McDugal.
8 McDugal doing things we didn't know. Angle in
9 campaign was Clinton involved in S&L scandal.
10 Now --

11 Q That's okay. Going back to "McDugal doing
12 things we didn't know," do you recall what that
13 refers to?

14 A I don't.

15 Q Could you provide any context for that at
16 all?

17 A No.

18 Q Is that Mr. Lindsey telling you that
19 McDugal is talking to the press, perhaps?

20 A I -- again I -- it's just Lindsey telling me
21 this in the context of Mike Isakoff. Again, I have
22 no picture, really, at all of this in my mind.

50

1 Q Do recall learning that Mr. Lindsey had a
2 concern about Mr. McDugal talking to the press?

3 A Not that he ever indicated to me.

4 "Now angle is what did Clintons have to do
5 with David Hale, and what was Vince Foster doing to
6 shut it down in the White House?"

7 Q Do you recall ever learning anything
8 about the relationship between the Clintons and David
9 Hale?

10 A No.

11 Q Do you recall ever learning whether Mr.
12 Foster was looking into the relationship between the
13 Clintons and David Hale?

14 A No.

15 Q Okay.

16 A Then what is below the squiggly line here
17 "pertains to a separate conversation". (Indicating)
18 That one.

19 Q This one?

20 A Um-hmmm.

21 Q And that is S012421.

22 Is that a conversation with Mr. Lyons?

1 A Yes.
2 Q Do you recall whether it is on the same
3 day, 10/4/93?
4 A I believe it was.
5 MR. KRAVITZ: I think we skipped something
6 on the right there.
7 MR. TAYLOR: Yes.
8 MR. KRAVITZ: A "smoking gun," no doubt.
9 MS. FISHER: What did I -- I just read that.
10 MR. KRAVITZ: Oh, you did?
11 THE WITNESS: Where?
12 MS. FISHER: Now the angle is.
13 MR. KRAVITZ: I am fading out here. Sorry
14 about that.
15 BY MS. FISHER: (Resuming)
16 Q Going back to the conversation with Bruce
17 Lindsey, could you read that again? "RTC" --
18 A "...Claims versus marketing/McDugal."
19 Q What is "marketing"?
20 A I have no idea. I don't know.
21 Q Can you put this phrase right here, "RTC
22 claims versus marketing/McDugal" into any context

1 whatsoever for me?
2 A No.
3 Q So do you believe that -- getting back to
4 the Lyons' conversation to you, you recalled that it
5 was on 10/4/93 when you had this conversation with
6 the Jim Lyons?
7 A I think it may have been.
8 I can't be absolutely positive.
9 Q Okay.
10 A It may have been.
11 Do you want me to --
12 Q Yes. Does it start on this page
13 (indicating), or this page(indicating).
14 A Yes, it starts here (indicating).
15 Q It starts on 421.
16 A "Both Girth and Isakoff are on it from
17 different perspectives. Girth, a few weeks ago, went
18 to Arkansas for three days and interviewed Hale.
19 Hale indicted, and was a municipal court judge.
20 Claims McDugal and Clinton encouraged and solicited
21 loans from Capital Services Management to benefit
22 Clinton and Tucker. Capital Services was misused by

1 Hale. Check from Capital Services to Susan McDugal,
2 \$300,000 in 1985, to Susan McDugal in her personal
3 account."

4 Q Do you recall Mr. Lyons telling you where
5 he was getting this information?

6 A This was a conversation I had with Jim
7 Lyons, and he was telling me in the context that he
8 had talked to Jeff Girth and Michael Isakoff, both of
9 whom are reporters for The New York Times and The
10 Washington Post, and I interpreted this to be the
11 stories they were working on.

12 Q Did Mr. Lyons provide you at this time
13 with any of his own independent knowledge?

14 A Not that I know of.

15 Q Did you ask him any questions about
16 whether these stories were true or accurate, at that
17 time?

18 A Not that I remember. I just just getting
19 briefed on what the reporters were doing.

20 "Bruce met with Girth. He and Lyons got
21 with the records. No evidence that Capital Service
22 ever did business with Whitewater or Clintons. Last

1 week Isakoff called Lyons. Lyons called to get
2 information and talked to him today. Isakoff,
3 different spin than Girth. Girth has records of S&L
4 owned by McDugal, reports of examination of bank
5 before it failed in 1988. Isakoff has sources in RTC
6 who can link Susan McDugal to Whitewater. Loan made
7 from Madison Marketing to Whitewater that was repaid.
8 Clintons had nothing to do with it. Isakoff says
9 Whitewater with McDugal's signature brought 810 acres
10 in Polaski County from International Paper. Paid
11 \$550,000, of which 80 percent mortgaged. A \$30,000
12 loan made to Whitewater from International Paper.
13 Public records, 1986.

14 "Two months later, land is sold. Mortgage
15 assumed and transferred to Great Southern Land
16 Company, an affiliate of McDugal. Isakoff in July
17 1992, FBI search warrant of David Hale and Capital
18 Services. Date was July 20th, day of Vince's
19 suicide. Bruce wrote it off with Girth. Isakoff
20 thinks Vince Foster was trying -- was getting tax forms
21 for Whitewater finished and that confluence of those
22 events raises question as to whether White House --"

1 White House -- I can't read my writing --

2 MR. TAYLOR: "Knew."

3 THE WITNESS: Oh, that's it. "...knew of
4 investigation of Whitewater."

5 BY MS. FISHER: (Resuming)

6 Q Do you recall at this conversation with
7 Mr. Lyons whether Mr. Lyons informed you that certain
8 aspects of either Mr. Girth's or Mr. Isakoff's, I
9 guess angle, as you called it, were inaccurate?

10 A Again, I mean when he indicates here Bruce
11 wrote it off with Girth, that told me that Jeff Girth
12 was wrong.

13 Q Okay. What about over here when Mr. Lyons
14 was informing you about the reports regarding Madison
15 and the loan to Susan McDugal.

16 Did he provide any context for that
17 information?

18 A No. Again, he was relaying what the
19 reporters were doing. I think here the line
20 "Clintons had nothing to do with it" --

21 Q That was from Mr. Lyons?

22 A Yeah.

1 Q So when Mr. Lyons had independent
2 knowledge that what the reporters were looking at was
3 inaccurate, you would write it down? "The Clintons
4 had nothing to do with it," for example?

5 A I don't know if he -- again, I can't
6 remember the specific -- to me, that is what it says.
7 But I don't know if that is his own independent
8 judgment or a statement from somewhere else. I don't
9 know.

10 Q Do you recall following up on any of these
11 matters?

12 MR. TAYLOR: Could I just interject here?

13 Is your question intended to ask her
14 whether every time Mr. Lyons said something to the
15 effect that the reporter had it wrong, She wrote it
16 down?

17 MS. FISHER: Well, I was --

18 MR. TAYLOR: -- thereby leaving the --

19 MS. FISHER: -- trying to say generally --

20 MR. TAYLOR: -- impression that if she
21 didn't write anything down about him, he didn't
22 correct it?

1 MS. FISHER: I didn't mean to leave that
2 impression. I was asking generally when he told you
3 that it was inaccurate, you wrote it down.

4 As, for example, you did when it said
5 "Clintons had nothing to do with it."

6 BY MS. FISHER: (Resuming)

7 Q Would you have written down the
8 information that he was giving you?

9 A I was getting briefed here on what the
10 reporters were doing, and I didn't know anything
11 about any of this. So I just wrote.

12 Q You just wrote everything that he said,
13 for example?

14 A I was just writing stuff down.

15 Q Okay.

16 Do you believe that in general you were
17 writing down everything that he was saying?

18 A I can't write that fast.

19 I just wrote down what I could to try and
20 give myself a context of what was going on with the
21 press.

22 Q Did you speak to anyone else to follow

1 up on any of these matters at that time, October of
2 '93?

3 A Not that I can recall.

4 Q Did you speak to Mrs. Clinton about any of
5 these matters?

6 A Not that I -- not that I remember
7 specifically.

8 Q Did you speak to Maggie Williams about any
9 of these matters?

10 A Not that I remember, no.

11 Q Did you speak to anyone at the White House
12 regarding David Hale in the fall of 1993?

13 A No.

14 Q Did you speak to anyone in the White House
15 about Jim or Susan McDugal in, I want to say the
16 fall, but really what I am getting at is maybe
17 September through December of 1993.

18 A No.

19 Q Generally did you attempt to contact other
20 that Master Lyons, and Mrs. Wright, was there anyone
21 else outside of the White House that you would
22 contact to follow up on these type of factual

1 matters, or these type of inquiries?

2 MR. KRAVITZ: When you say "these type,"
3 do you mean Arkansas-related

4 MS. FISHER: I mean Madison, Whitewater,
5 Arkansas related matters.

6 THE WITNESS: I don't think so, no.

7 BY MS. FISHER: (Resuming)

8 Q For example, is there anyone in Arkansas
9 that you ever contacted regarding any of these
10 matters?

11 A Not that I have any memory of, no.

12 Q If there was someone at the White House
13 that was going to perform some type of factual
14 research to look into these matters, who would that
15 have been, to your knowledge?

16 A I don't know.

17 Q Looking at 012422 and 012423, it appears
18 that they go together although I am not positive.

19 A Yes.

20 Q Are those your notes?

21 A Yes.

22 Q Could you describe the circumstances?

60

1 A They're on a "POST-IT" that was attached
2 to this, like stuck onto that.

3 Q So it is probably dated around the same
4 time of 10/4/93?

5 A There is no date on this. I guess.

6 Q Okay.

7 A Do you want me to read it, or --

8 Q Do you recall, or do you have any
9 independent recollection, of taking these notes or of
10 the circumstances surrounding it?

11 A No.

12 Q Do you recall whether it may have been a
13 conversation with Ms. Lynch?

14 A I don't believe it was. This to me
15 indicates someone telling me who Lorretta Lynch is.

16 Q Do you recall who was telling you, or who
17 these notes --

18 A I do not.

19 Q Could you just read them for me?

20 A "Loretta Wench, Lawyer, Whitewater
21 Company, Sheffield Nelson, stir up" --

22 Q Do you recall -- can you put that in context

1 at all, "Sheffield mess" and "stir up"? Do you
2 recall what that was -- what the meaning of that is?

3 A "Sheffield Nelson" -- to me it reads
4 Sheffield Nelson stirring up stories. The the next
5 entry is Post and New York Times.

6 Q Who is Sheffield Nelson?

7 A He is a political foe of President
8 Clinton's in Arkansas.

9 Q Okay.

10 A "Post and New York Times, call Bruce in
11 Loretta. David Hale indicted for making bad loans
12 through Small Business corporation. Friend of
13 Sheffield Nelson. Few days before indicted; pressure
14 to make loans by Jim Guy Tucker and BC. Jeff Girth
15 wrote New York Times story, Nelson backdooring money
16 to Hale."

17 Q Do you have any independent recollection
18 of -- Well, after reading it now, do you have any
19 recollection of who may have been providing you with
20 this information?

21 A I don't know.

22 Q Other than what's reflected in these

1 notes, do you have any more information related to
2 the substance of what is written in them?

3 A No.

4 MR. KRAVITZ: Could we take five minutes?

5 MS. FISHER: Absolutely.

6 (Brief recess.)

7 MR. TAYLOR: Are we back on the record?

8 MS. FISHER: Back on the record, yes.

9 BY MS. FISHER: (Resuming)

10 Q I want to show you a document that is
11 marked 12447, and it appears to be a message dated
12 11/2/93, and ask, Ms. Caputo, if you could explain to
13 me what this is.

14 A It's a telephone message from Richard Kyle
15 of the Associated Press who asked a question as "HRC
16 relationship with Madison Guaranty Savings & Loan
17 while in Arkansas."

18 Q Do you recall returning this call to
19 Mr. Kyle?

20 A I don't -- I don't specifically know.

21 Q Do you recall any attempts to gather
22 information to respond to Mr. Kyle on this matter,

1 other than what we had discussed?

2 A Yes. What is on the back of this is the
3 answer to his question. Whether I gave it to him or
4 someone else did, I honestly do not remember.

5 Q And that is document 12448?

6 A Yes.

7 Q Could you read that for me?

8 A Several law firms represented them, and
9 one firm was the Rose Law Firm at some point during
10 the 1980s. HRC did not work on the matter directly.

11 Q And that is -- Do you recall what the
12 specific matter was, meaning the client matter? Was
13 it Madison in general, or --

14 A I don't remember.

15 Q Do you recall where you got this
16 information from?

17 A I don't.

18 Q Or from whom?

19 A I don't.

20 Q Do you recall any further conversations
21 after November 2nd on this matter, other than the
22 press conference and preparation for the press

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1 conference?

2 A On the matter of Madison Guaranty?

3 Q The relationship between Mrs. Clinton and
4 Madison Guaranty.

5 A I don't have any memory, no.

6 Q Did you ever discuss it with Susan
7 Thomases?

8 A No.

9 Q I am going to show you documents 12449 and
10 12450 dated November 10th, 1993, and ask you if you
11 could put these notes into context for me, if you
12 recall -- have an independent recollection of why you
13 took these notes?

14 A This reflects a conversation I had with
15 Mrs. Clinton.

16 Q On November 10th, 1993?

17 A Yes.

18 Q Do you recall the circumstances of that
19 conversation?

20 Was it at a meeting, or on the telephone?

21 A I believe it was on the telephone.

22 Q Was anybody else present on that phone

1 call?

2 A No.

3 Q And do you recall whether you called her,
4 or she called you?

5 A My recollection is that this occurred at a
6 time when there were a lot of press inquiries about
7 Mrs. Clinton attempting to get power of attorney, and
8 it probably was that I picked up the phone and called
9 her in response to the press inquiries.

10 Q Could you just -- Do you recall whether
11 these notes reflect what she was telling you at this
12 time?

13 A I believe they do.

14 Q Could you just read them, please?

15 A "McDugal didn't pay franchise firms.

16 Didn't know if file --

17 MR. TAYLOR: "Franchise"?

18 THE WITNESS: -- "franchise firm's fees.

19 Didn't know if filed. Tried to get him to give me
20 power of attorney. Never got power of attorney.

21 Never filed tax return for two to three years, so had
22 wife sign forms. They were separated at the time.

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1 McDugal is former alcoholic, manic depressive on
2 Prozac and lithium. Got note from Secretary of State
3 that he didn't pay franchise taxes for two to three
4 years. Called Chris and Emily Wade and said, what's
5 going on? Tried to reach McDugal and never returned
6 calls. Didn't answer letters of mine. Several
7 requests for power of attorney. McDugal lived in a
8 garage and never answered his mail."

9 BY MS. FISHER: (Resuming)

10 Q So to the best of your recollection, these
11 notes are limited -- or this conversation was limited
12 to the press inquiries relating to Mrs. Clinton
13 attempting to get power of attorney for the
14 Whitewater matter from the McDugals? •

15 A Yes, because the taxes weren't being paid.

16 Q Do you recall whether they weren't being
17 paid in 1992 or 1993? Or was it an earlier time?

18 A I don't remember. I don't know.

19 Q Did you have any other discussions with
20 Mrs. Clinton about Whitewater around this time
21 period?

22 A I may have. I have no recollection

1 specifically of any.

2 Q Do you recall that this was your first
3 conversation with Mrs. Clinton about Whitewater?

4 A No.

5 Q So you believe you may have had
6 conversations with her earlier than November 10th?

7 A It's possible, because it was in the news.

8 Q Do you recall having any conversations
9 prior to November 10th with Dave Kendall?

10 A I don't recall any.

11 Q Do you recall having any discussions in
12 1993 regarding Whitewater or Madison with Mr.
13 Hubbell?

14 A No.

15 Q Do you know a woman by the name of Amy
16 Stuart?

17 A Yeah.

18 Q Who is Amy Stuart?

19 A She worked at the Rose Law Firm.

20 Q Do you recall her, Ms. Stuart, being at
21 the White House in 1993?

22 A No.

1 Q How did you come to know Ms. Stuart?

2 A I knew she worked at the Rose Law Firm. I
3 think I either met her in person or by telephone
4 during the Presidential Campaign when I was in Little
5 Rock.

6 Q You don't recall ever seeing her at the
7 White House?

8 A No.

9 (Handing document to the witness.)

10 Q This is a document, 12451 and 12452, dated
11 October 12, 1993, from Bruce Lindsey to the file.
12 Although I notice that you are not one of the CCs on
13 this letter, it was represented by the White House
14 that this came from your files.

15 Is that correct?

16 A Yes.

17 Q Are these your notes?

18 A No.

19 Q Do you know whose notes these are?

20 A Yes.

21 Q Whose notes are those?

22 A That's Mrs. Clinton's handwriting.

1 Q Do you know how you came into possession
2 of this document?

3 A Someone gave it to me, but I don't know
4 who it was.

5 Q And whoever gave it to you told it that
6 this was Mrs. Clinton's handwriting, or do you just
7 recognize it to be Mrs. Clinton's handwriting?

8 A I recognize it to be Mrs. Clinton's
9 handwriting.

10 Q On the second page, the first question
11 says, "Did the David Hale Whitewater matter come up
12 during Jim Guy Tucker's visit with the President last
13 Thursday?"

14 And the handwritten answer is, "No."

15 Do you recall discussing that specifically
16 with the First Lady?

17 A No, I don't.

18 Q And the second question relating to
19 whether Susan McDugal discussed the possibility of
20 letting the McDugals take Whitewater off the
21 Clintons' hands in 1986, and it goes on to relate to
22 some other things.

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1 Can you read -- I'll just read it in total.

2 "Did Susan McDugal discuss with Hillary
3 Clinton the possibility of letting the McDugals take
4 Whitewater off the Clintons' hands in 1986? And if
5 so, why didn't Mrs. Clinton agree to the arrangement?

6 And then it goes on to say, "This question
7 is based upon Jim McDugal's statement to Isakoff that
8 the reason he put International Paper property in
9 Whitewater's name was because he expected the
10 Clintons to turn over Whitewater, and that Susan
11 discussed the possibility with Hillary."

12 And then it goes on. Could you just tell
13 me what Mrs. Clinton's notes say in the margin.
14 Could you read them?

15 A I don't remember anything about this and
16 never knew anything about any International Paper
17 property.

18 Q Did you discuss this matter with Mrs.
19 Clinton at any time?

20 A No, I didn't.

21 I recall at some point preparing for the
22 press conference, you know, that this general

1 Whitewater topic obviously came up, but
2 specifically -- and I remember her saying she didn't
3 know anything about International Paper.

4 Q The last question: "Did Hillary Clinton
5 know about the Susan McDugal loan from Capital
6 Management on the land purchased from International
7 Paper?"

8 And the handwritten note is, "No" and that
9 is also Mrs. Clinton's?

10 A I'm not sure whose that is.

11 Q Are the two notes someone other than Mrs.
12 Clinton's?

13 A I don't know if those -- I don't know.

14 Q Do you recall discussing with Mrs. Clinton
15 the Susan McDugal loan from Capital Management?

16 A No, I don't.

17 MR. TAYLOR: In the interest of
18 completeness, you should probably be aware that the
19 original of this document indicates that this was
20 Maggie Williams' copy.

21 MS. FISHER: Oh? Okay. There was a check
22 or something on it?

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1 MR. TAYLOR: It is highlighted.

2 MS. FISHER: Okay. Okay. So for the
3 record that is page 12452, Ms. Williams' name is
4 highlighted.

5 BY MS. FISHER: (Resuming)

6 Q Does that refresh your recollection that
7 you might have gotten this document from Ms.
8 Williams?

9 A It could be.

10 Q Notes 12443 dated 1/3/94, could you just
11 read those for me? Are those your notes?

12 A Yes.

13 "Whitewater. We requested voluntarily
14 subpoena to ensure against leaks. Could undermine
15 Grand Jury under a control of Republican Prosecutor
16 Kendall requested subpoena. RTC referred to U.S.
17 Attorney in Arkansas, possibility of looking into
18 allegations of misuse by Madison, protection of
19 subpoena requested December 23rd."

20 Q Do you recall, are these notes of a
21 conversation that you had with someone?

22 A I believe these are notes from a meeting.

1 Q Do you recall who was present at the
2 meeting?

3 A I don't.

4 Q Was Mr. Kendall present at the meeting?

5 A I don't know.

6 Q Could you put these notes into context for
7 me at all regarding the subpoena?

8 A My memory serves me that these notes were
9 probably taken at a meeting to discuss what was in
10 the media and media strategy, and that it indicates
11 that we requested a subpoena when the Whitewater
12 documents were turned over to the Justice Department
13 so as to protect against leaks to the press.

14 Q Did you have some basis to believe that
15 producing these documents pursuant to a subpoena
16 would be different than -- would protect the White
17 House from producing the documents to other entities?

18 A My understanding was, a subpoena was
19 requested to preserve the integrity of the Grand Jury
20 and to prevent any leaks from getting out to the
21 media so that there would be a fair process that took
22 place.

1 Q At any time did you have any discussions
2 relating to Whitewater or Madison with Mr. Hubbell?

3 A No.

4 Q Mr. Kennedy?

5 A No.

6 Q Other than Mr. Lindsey and Mrs. Clinton,
7 was there anyone else in the White House that you
8 discussed Whitewater or Madison-related issues -- and I
9 would exclude your immediate press office.

10 A Oh, well there were others in the White
11 House press apparatus, because obviously Whitewater
12 was in the news.

13 Q Other than the press-related and
14 communications-related people. Basically the
15 information I am trying to get at is: Is there
16 anyone else you would go to in the White House, or
17 you'd discuss these matters with in the White House
18 to get the factual information to answer these press
19 inquiries?

20 A No.

21 Q Anyone in the White House Counsel's
22 office?

1 A No.

2 Q Do you have any knowledge relating to the
3 possibility that there were Madison Guaranty-related
4 files in Mr. Foster's office when he died?

5 A No.

6 Q Did you ever speak to Mrs. Clinton about
7 Madison files from the Rose office?

8 A No.

9 Q Did you ever talk to Bruce Lindsey about
10 the Madison files from the Rose Law Firm?

11 A No.

12 Q Did you ever gain any additional knowledge
13 relating to the loan from David Hale to Susan
14 McDugal?

15 A No.

16 Q Did you discuss with anyone in the White
17 House the fact that the McDugals paid a
18 disproportionate amount of money into the Whitewater
19 Development vis-a-vis the Clintons?

20 A No.

21 MS. FISHER: I think that is probably it,
22 if you'll just give me a minute.

1 (Pause.)

2 (Discussion off the record.)

3 MS. FISHER: Back on the record.

4 BY MS. FISHER: (Resuming)

5 Q Were you ever involved in answering press
6 inquiries relating to Dan Lassiter or Lassiter &
7 Company-related issues?

8 MR. KRAVITZ: I am going to object to that
9 question. I think that that goes beyond the scope of
10 the Resolution. If you want to limit it to that
11 paragraph in the Resolution, I will withdraw my
12 objection.

13 MS. FISHER: Well, I don't want to limit
14 it.

15 MR. KRAVITZ: Then I object.

16 If you want to ask her whether she ever
17 answered press inquiries relating to bond
18 underwriting contracts between the Arkansas
19 Development Finance Authority and Dan Lassiter or
20 Lassiter & Company, then that is acceptable.

21 MS. FISHER: Neal, obviously there are
22 going to be other questions that are relevant other

1 than just that one issue. I mean, you can get to
2 that information. I mean, it's reasonable to think
3 that the answer to that question could lead to
4 evidence that is relevant.

5 I mean, the answer might be "no."

6 MR. KRAVITZ: That doesn't make the
7 question proper.

8 MR. TAYLOR: What is the question?

9 MS. FISHER: Would you read back the
10 question?

11 THE REPORTER: "Were you ever involved in
12 answering press inquiries relating to Dan Lassiter or
13 Lassiter & Company-related issues?"

14 MR. TAYLOR: I am going to let her answer.

15 MR. KRAVITZ: Well, I am not sure I am.

16 MR. TAYLOR: Oh? Okay.

17 MR. KRAVITZ: This was part of the
18 Resolution that was negotiated very carefully and was
19 specifically limited to the language that is in the
20 Resolution which says, and I am quoting from Section
21 1(b)(3)(F), and it authorizes the Committee to
22 investigate, quote:

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1 "The bond underwriting contract between
2 Arkansas Development Finance Authority and Lassiter &
3 Company."

4 MR. TAYLOR: May I then suggest that we
5 proceed this way. You ask the narrow question and
6 get the answer. If there are broader questions that
7 you want to ask, ask them, make the record on the
8 questions so that his objection can be --

9 MS. FISHER: That's fine.

10 MR. TAYLOR: That means that we don't have
11 to come back if the objections are sustained.

12 MS. FISHER: Okay.

13 BY MS. FISHER: (Resuming)

14 Q Did you ever have any involvement in
15 answering press inquiries related to the bond
16 underwriting contract between the Arkansas
17 Development Finance Authority and Lassiter &
18 Company?

19 A No.

20 Q Did you have any discussions with anyone
21 at the White House relating to the Arkansas
22 Development Finance Authority?

1 A No.

2 Q Did you have any discussions at the White
3 House -- with anyone at the White House relating to any
4 underwriting contracts involving Lassiter & Company?

5 MR. KRAVITZ: Wait a minute. Do you mean
6 bond underwriting contracts?

7 MS. FISHER: Bond underwriting contracts,
8 sorry.

9 MR. KRAVITZ: Do you mean from the
10 Arkansas Development Finance Authority?

11 MS. FISHER: She might not know they're
12 from the Arkansas Development Finance Authority, so I
13 am trying to get at the information in any way that I
14 can.

15 MR. KRAVITZ: I just want to make sure
16 that that is what you mean, even though you are not
17 limiting your question.

18 MS. FISHER: I am not limiting my
19 question.

20 MR. KRAVITZ: That is not responsive to my
21 question.

22 I mean, if you know about bond

1 underwriting contracts between Lassiter and some
2 other agency, that is an inappropriate inquiry.

3 If you are just trying to get at the same
4 issue --

5 MS. FISHER: I was trying to get the
6 information --

7 MR. KRAVITZ: Let me finish without
8 interrupting me, please.

9 If you are trying to get at the
10 subject that is in the Resolution, I will not
11 object to that question. But if you are
12 trying to bring in something that is irrelevant
13 to the Resolution by asking that question, I
14 object.

15 MR. TAYLOR: I think you guys are fussing
16 over a moot point.

17 What is the answer to the question?

18 THE WITNESS: What is the question?

19 MR. KRAVITZ: Let me just state for the
20 record, it may be that we are fussing over a moot
21 point --

22 MR. TAYLOR: With regard to this witness.

1 MR. KRAVITZ: -- with regard to this
2 witness, but this appears to be an issue that may not
3 be moot with regard to other witnesses.

4 MR. TAYLOR: All right, then I will be
5 more respectful.

6 MR. KRAVITZ: And it is important for our
7 record to be protected.

8 MS. FISHER: Would you read the question
9 back, please?

10 THE REPORTER: "Did you have discussions
11 at the White House with anyone at the White House
12 related to any underwriting contracts involving
13 Lassiter & Company?"

14 "Mr. Kravitz: Do you mean bond
15 underwriting companies?"

16 "Ms. Fisher: Yes, I mean bond
17 underwriting company."

18 MR. TAYLOR: You object to the question as
19 phrased on the ground that it calls for information
20 beyond the scope of the Resolution?

21 MR. KRAVITZ: That it could.

22 MR. TAYLOR: All right, do you feel

1 strongly enough about it that you want to preserve
2 that and have it reviewed?

3 MR. KRAVITZ: Let's talk a minute.

4 (Mr. Kravitz and Ms. Fisher confer.)

5 (Discussion off the record.)

6 MS. FISHER: Back on the record.

7 BY MS. FISHER: (Resuming)

8 Q Do you recall any discussions at the White
9 House, or did you receive any press inquiries
10 relating to bond underwriting contracts and Lassiter
11 & Company or Dan Lassiter?

12 A No.

13 Q Do you recall any issues relating to the
14 Perry County Bank arising while you were at the White
15 House?

16 A No.

17 Q Do you recall receiving any information
18 related to Capital Management Services, Inc., while
19 you were at the White House?

20 A No.

21 Q Do you mean other than what she has
22 already testified to today?

1 A Yes. Other than your notes of the
2 conversations that you have testified to today?

3 A No.

4 Q Do you recall receiving any
5 information regarding whether Susan McDugal
6 delivered Whitewater-related documents to the
7 Governor's Mansion while President Clinton was
8 Governor?

9 A I remember at one point there were press
10 inquiries about that.

11 Q Do you recall discussing that with Mrs.
12 Clinton?

13 A (Pause.)

14 I don't remember.

15 I remember press inquiries, but I don't
16 remember.

17 (Pause.)

18 Q Do you ever recall discussing with Mrs.
19 Clinton whether Mrs. Clinton shared in the profits
20 earned from the Rose Law Firm's representation of
21 clients before state agencies?

22 I can refer you to the part of the press

1 conference that speaks of this, and it is 012476, if
2 that would refresh your recollection?

3 (Handing document to the witness.)

4 A So can you --

5 Q Does this refresh your recollection of
6 any discussions you may have had relating to this
7 issue, other than -- well, any discussions you may have
8 had --

9 MR. TAYLOR: Other than what is in there?

10 BY MS. FISHER: (Resuming)

11 Q Well, about this subject. Did you discuss
12 that with anyone?

13 A With anyone?

14 Q Um-hmmm.

15 A Other than Mrs. Clinton? Or with --

16 Q Well, with Mrs. Clinton.

17 A I don't have any recollection of
18 discussing it with anyone.

19 It may have come up in the prep sessions,
20 and what she said is what I remember being said in
21 the prep session.

22 Q So to the best of your knowledge what she

1 said about making a decision not to share in the
2 profits from any representation of state agencies at
3 the time she became a partner in the law firm is
4 consistent --

5 A Yes.

6 Q -- with what she had said in the prep
7 session?

8 A Yes.

9 Q Do you recall ever learning any further
10 information about this issue?

11 A No.

12 MS. FISHER: I believe that's all I have.
13 Thank you.

14 MR. KRAVITZ: I was going to say I have no
15 questions until --

16 (Laughter.)

17 MR. KRAVITZ: I have no questions.

18 MR. TAYLOR: Thank you.

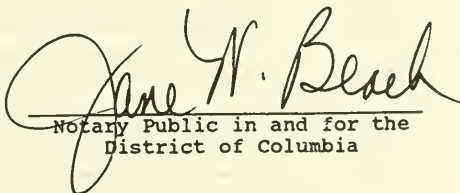
19 MS. FISHER: Thank you, so much.

20 (Whereupon, at 3:50 p.m., Thursday,
21 December 21, 1995, the instant deposition ceased.)
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996

DEPONENT Lisa M. Caputo

ERRATA

[illegible]

**DEPOSITION OF SAM I. BRATTON, JR.
IN RE: S. RES. 120**

VOLUME I

FRIDAY, JANUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of SAM I. BRATTON, JR., called for examination pursuant to notice of deposition, at 10:05 a.m. in Room 640-A of the Hart Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

MARK J. BRENNER, Esq.
Majority Assistant Special Counsel
MICHAEL P. O'CALLAGHAN, Esq.
Majority Associate Special Counsel
DOUGLAS R. NAPPI, Esq.
Majority Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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WITNESS

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P R O C E E D I N G S

(10:05 a.m.)

Whereupon,

SAM I. BRATTON, JR.

was called as a witness herein, and having been first
duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BRENNER:

Q Please state your name for the record.

A Sam I. Bratton, Jr.

Q Mr. Bratton, I'm just going to run through
a couple of preliminaries.

This is a deposition being conducted
pursuant to Senate Resolution 120. Resolution 120
establishes a Special Committee administered by the
Banking Committee to conduct an investigation
involving Whitewater Development Corporation, Madison
Guarantee Savings & Loan Association, Capital
Management Services, Inc., the Arkansas Development
Finance Authority and other related matters.

This deposition is in advance of public
hearings anticipated to occur in late January and

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February, and you may be called to testify at those
hearings.

I will ask you a series of questions, as
will Mr. O'Callaghan, when he joins us.

I'm going to ask you to testify under
oath. If you don't understand any of the questions I
ask, or if I'm not speaking loud enough, or if I'm
not enunciating well enough, please ask me to speak
up or rephrase the question.

If you need a break, just let us know at
any time. The stenographer will prepare a record of
the questions and answers and this deposition will be
treated as Committee confidential, quote unquote,
until the commencement of the hearings.

Prior to the hearings, you'll receive a
letter from the Committee telling you that you may
come to the Senate and review the transcript of your
deposition and make note of any corrections for the
transcription on an errata sheet.

If you're called to testify at the public
hearings, you will be permitted to have a copy of
your deposition transcript four days in advance of

1 the hearings.

2 MR. PORTNOY: I'm sorry to interrupt. We
3 can do this off of the record.

4 (Discussion off the record.)

5 BY MR. BRENNER:

6 Q You may be represented by counsel. I see
7 you're not represented by counsel at this point.

8 Is this correct?

9 A Correct.

10 Q Objections may come to the form of the
11 question and will be noted for the record. You may
12 object on the grounds of relevance and any privilege
13 that you feel you may have.

14 The Committee Chairman will rule on all
15 objections where the witness refuses to answer the
16 question.

17 I'm going to run through a few background
18 questions now.

19 Would you please state your name for the
20 record?

21 A Sam I. Bratton, Jr.

22

1
2 Q Your present business address?

3 A My present business address is Arkansas
4 Public Service Commission, 1000 Center, Post Office
5 Box C400, Little Rock, Arkansas, 72203.

6 Q Mr. Bratton, could you please run briefly
7 through your employment history?

8 A I graduated from the University of
9 Arkansas Law School at Fayetteville in 1973.

10 The year immediately following that, 1973-
11 74, I clerked for Associate Justice John Fogleman of
12 the Arkansas Supreme Court. I then went to work in
13 the State Attorney General's Office.

14 I worked approximately two and a half
15 years for then attorney general Jim Guy Tucker. He
16 was succeeded by Bill Clinton. I worked for the
17 President while he was attorney general for two
18 years. When he became governor in 1979, I worked for
19 him during the 1979-80 term.

20 I returned to the Governor's office in the
21 fall of 1983. I worked there until the Spring of
22 1989. At that point, I was appointed as Chairman of

1 the Public Service Commission and I have served in
2 that position as of this date.

3 Q Could you briefly explain the duties of
4 the Chairman of the Public Service Commission?

5 A The Public Service Commission is the state
6 government agency in Arkansas that regulates
7 utilities. We regulate telephone, natural gas, and
8 electric utilities, rates, quality of service, and
9 other related matters.

10 Q Did you speak to anyone prior to your
11 deposition about what you may discuss at the
12 deposition or the fact that you've been called?

13 A I have probably told any number of people
14 that I had been called for a deposition.

15 Q Do you think you could recall the names of
16 those people?

17 A I don't know. Several people, friends,
18 family.

19 Q Did you discuss it with anybody who
20 currently resides in the greater Washington, D.C.
21 area?

22 A I don't believe so.

1 Q Have you testified about similar matters
2 before, either orally or in writing?

3 A Yes.

4 Q Without going into details as to grand
5 jury testimony, when was that?

6 A Approximately a month ago.

7 MR. PORTNOY: Can we assume from that that
8 that was testimony before the grand jury?

9 THE WITNESS: It was before the grand jury
10 in Little Rock.

11 BY MR. BRENNER:

12 Q I'd like to go to the years you spent in
13 the Attorney General's office. You stated that you
14 started with the Attorney General Jim Guy Tucker?

15 A Yes.

16 Q How did you come to meet Mr. Tucker?

17 A Our offices at the Supreme Court were
18 right down the hall from the Attorney General's
19 office. I don't recall specifically when or how I
20 met him. But there were people I knew who worked in
21 the Attorney General's office. I was in and out of
22 there from time to time.

1 Q What was the nature and extent of your
2 relationship with Governor Tucker while he was
3 Attorney General?

4 A I was an assistant attorney general, one
5 of probably twenty staff lawyers.

6 Q Was your relationship strictly
7 professional?

8 A Yes.

9 Q How did you come to make the move from the
10 Supreme Court to the Attorney General's office?

11 A The Supreme Court clerkships were one year
12 or nine-month appointments, and so I applied for a
13 number of jobs as I was completing that clerkship.
14 One of those positions was with the Attorney
15 General's office.

16 Q What were your responsibilities as deputy
17 attorney general?

18 A I was an assistant attorney general. I
19 worked as the lawyer for the State Education Agency,
20 for a number of other smaller boards and commissions
21 from time to time, and worked in the opinions
22 section.

10

1 Q How did you come to meet President
2 Clinton?

3 A I met him during the campaign when he ran
4 for Attorney General late in the campaign or shortly
5 after the election. I don't recall which.

6 Q At that point, did you have discussions
7 with the President about staying at the Attorney
8 General's office?

9 A I did.

10 Q Could you describe those discussions?

11 A No, not at this point. I mean, we had an
12 interview. He interviewed every member on the staff
13 that was interested in continuing to stay on the
14 staff. That was 18 years ago. I don't remember the
15 substance of the discussions.

16 MR. BRENNER: Can we go off the record for
17 a minute, please?

18 (Discussion off the record.)

19 MR. BRENNER: Can we go back on the
20 record.

21 BY MR. BRENNER:

22 Q Could you just so I'm clear, I wasn't able

1 to get the dates, when you graduated, was that in
2 1973?

3 A '73.

4 Q At that point, you went to?

5 A Clerk for the State Supreme Court the fall
6 of '73 through the summer of '74.

7 Q And then?

8 A I went to work in the AG's office in
9 probably August or September of '74, and was there
10 through the end of '78.

11 Q And at the end of '78?

12 A I went to work in the Governor's office in
13 January of 1979. Worked there through the end of
14 1980. Was in private law practice for approximately
15 two and a half years. Returned to the Governor's
16 office in the fall of 1983.

17 Q What firm were you with in private
18 practice?

19 A I was a solo practitioner.

20 Q I take it you left in 1980 due to the
21 change in administrations?

22 A That's correct.

1 Q You stated that as an assistant attorney
2 general, some of the issues that you dealt with were
3 education?

4 A Yes.

5 Q And there were some other boards that you
6 worked with?

7 A Yes.

8 Q Do you recall the names of any of those
9 boards?

10 A I represented the board that licensed
11 motor vehicle dealers. I worked as counsel for the
12 board that regulated private security guards and
13 security companies, and probably some others I don't
14 recall at this point.

15 Q At the end of 1978, were you asked to go
16 to the Governor's office by then Governor Clinton?

17 A Yes.

18 Q Do you recall any of the discussions you
19 had about going to the Governor's office?

20 A No, not the particulars.

21 Q By this time, had you met Mrs. Clinton?

22 A Yes.

1 Q What was the nature and extent of your
2 relationship at that time with Mrs. Clinton?

3 A I mean I knew her. I'd met her two or
4 three times but that was the extent of it.

5 Q When you went to the Governor's office,
6 what issues were you working on?

7 A During the first two years I worked there,
8 I worked partly on education-related issues.

9 Q And what were you doing?

10 A I was the Governor's office liaison with
11 the various education agencies of state government.

12 Q Could you specify the agencies that you
13 worked with as a liaison?

14 A The State Department of Education, the
15 State Department of Higher Education, the School for
16 the Blind, the School for the Deaf, the State Library
17 Commission, and the Educational Television Network,
18 the public two-year and four-year institutions of
19 higher education.

20 Q Who asked you to make the move to the
21 Governor's office?

22 A I'm not sure what you're --

14

1 Q You stated that you left the Attorney
2 General's office to go to the Governor's office. Did
3 President Clinton ask you to join his team in the
4 Governor's office?

5 A Well I had indicated an interest to make
6 that change and was given the opportunity by him to
7 do so, yes.

8 Q So you indicated an interest to him?

9 A Yes.

10 Q After you left and went into private law
11 practice, what was the nature of your private
12 practice?

13 A Approximately half my time was under
14 contract with a private non-profit that represented
15 handicapped individuals in various matters, primarily
16 school-aged children in special education situations.

17 The remaining part of my practice was
18 domestic relations, some small business clients, more
19 or less whatever walked in the door.

20 Q When you went back to the Governor's
21 office, when President Clinton was reelected as
22 Governor, did you approach him about going back to

1 the Governor's office?

2 A I initially returned in the fall of 1983
3 to work on some issues around a special session
4 involving education that was convened in the fall of
5 1983, and I believe Betsy Wright first approached me
6 about coming back and assisting in that effort.

7 Q When did you first meet Betsy Wright?

8 A I first met Betsy Wright some time shortly
9 after the 1989 gubernatorial election.

10 Q What was her role in the Governor's office
11 at that time?

12 A She was not in the Governor's office at
13 that time.

14 Q What was her position at that time, do you
15 know?

16 A She came to Arkansas in the latter part of
17 1980 or early 1981, I think probably the latter part
18 of 1980, to assist in organizing President Clinton's
19 records and files from the Governor's office, and
20 eventually stayed in Arkansas, and ultimately worked
21 on his reelection campaign in 1982.

22 Q After working on his reelection campaign,

16

1 did she then go to work in the Governor's office?

2 A Yes.

3 Q What was her role in the Governor's office
4 at that time?

5 A I'm not sure what her title was.
6 Initially during most of the time that I worked
7 there, she was the senior staff person, the chief of
8 staff. She was not initially but was more or less
9 the number two staff person initially.

10 Q I'm sorry, who was the number one staff
11 person initially?

12 A Maurice Smith.

13 Q Did you have any contact with Maurice
14 Smith?

15 A Yes.

16 Q What was the nature and extent of your
17 contact with Mr. Smith at that time?

18 A I think he was probably still chief of
19 staff when I first started back in the fall of 1983.

20 Q You spent much of your time in the
21 Governor's office working closely with Betsy Wright?

22 A Yes.

1 Q She was your supervisor?

2 A Yes.

3 Q Did you handle issues, did you ever handle
4 issues other than educational issues?

5 A Yes.

6 Q When did you start handling issues other
7 than educational issues?

8 A Beginning in January 1984.

9 Q What other issues were you working on?

10 A I handled legislative issues, other legal
11 issues, and was the liaison with the State Department
12 of Finance and Administration and most of the
13 regulatory type agencies.

14 Q And would that include the Public Service
15 Commission?

16 A It would.

17 Q So you acted in a liaison capacity to the
18 Public Service Commission?

19 A Yes.

20 Q And you did that from January of '84 until
21 1989?

22 A Yes.

1 Q Did you work with the Alcohol Control
2 Board as a liaison, another regulatory agency?

3 A I did some work related to that agency but
4 not much.

5 Q I'd like to flesh out, if we could a
6 little bit, your role in the Governor's office
7 between the period of 1984 and 1989, and how that may
8 have changed.

9 Could you describe the work you performed.
10 Subsequent to our discussion of your changing role,
11 did it continue to change?

12 A It did not basically change from January
13 of '84 until the time I left. It was more or less
14 the same role.

15 Q Could you explain the hierarchy in the
16 Governor's office in terms of who was in charge, who
17 they supervised?

18 A During most of that time, Betsy Wright was
19 chief of staff, and professional staff for the most
20 part all reported directly to her.

21 Q You stated earlier that you reported to
22 her. Did you have anyone who reported to you?

- 1 A A secretary.
- 2 Q What was your secretary's name?
- 3 A Judy Smithson.
- 4 Q Spell that for the record, please.
- 5 A S-M-I-T-H-S-O-N.
- 6 Q You stated that as well as acting as a
- 7 liaison to the various regulatory agencies, you
- 8 worked on legislative issues. Is that correct?
- 9 A Yes.
- 10 Q What sort of legislative issues did you
- 11 work on?
- 12 A Almost any legislative issue that the
- 13 Governor's office was involved with.
- 14 Q In that capacity, did you make
- 15 recommendations to the Governor about legislation
- 16 that had passed the Arkansas House and Senate?
- 17 A Yes, I did.
- 18 Q Did you compile information in order to
- 19 make those recommendations from the various agencies?
- 20 A From time to time.
- 21 Q Were you also responsible for seeing that
- 22 the Governor's agenda, legislative agenda, saw its

20

- 1 way through the Arkansas Congress?
- 2 A That was part of my responsibilities.
- 3 Other people had some part of that responsibility as
- 4 well.
- 5 MR. BRENNER: Can we go off the record?
- 6 We'd just like to take a few-minutes break if we
- 7 could.
- 8 (Recess.)
- 9 MR. BRENNER: Go back on the record.
- 10 BY MR. BRENNER:
- 11 Q You stated that Maurice Smith was the
- 12 person who you reported to before you reported to
- 13 Betsy Wright?
- 14 A Correct.
- 15 Q What was his role in the Governor's
- 16 office?
- 17 A Well, for a time, he was chief of staff.
- 18 Q What did that entail under Mr. Smith?
- 19 A When Maurice Smith was chief of staff, he
- 20 dealt mainly with outside constituencies, and Betsy
- 21 Wright managed the internal operations of the staff
- 22 for the most part. When she was chief of staff, she

1 performed more or less both functions.

2 Q When you say she dealt with the internal
3 operations for the most part, were there other
4 people, or did Mr. Smith deal with some of those?

5 A She and Mr. Smith shared those
6 responsibilities to some extent, but the day to day
7 direct management of the staff was largely under
8 Betsy Wright's direction.

9 Q Do you recall the dates or the general
10 months or seasons of Mr. Smith's tenure and Ms.
11 Wright's tenure?

12 A I don't right off hand, no.

13 Q I was hoping you might be able to explain
14 with regard to the legislative work that you did,
15 what exactly that entailed.

16 A It entailed any number of different
17 things. Drafting legislation, reviewing legislation
18 during the legislative session, working with members
19 of the General Assembly who were sponsoring
20 legislation that the Governor was putting forward in
21 effort to try and get our Governor's legislative
22 program passed. When legislation was passed, I

1 reviewed it prior to the Governor either signing or
2 vetoing it. Drafted veto messages for legislation
3 that was vetoed, and generally anything else that had
4 to do with the legislative session, and tried to put
5 forward the Governor's program.

6 Q Was there anyone else in the Governor's
7 office who was responsible for any of the legislative
8 issues, other than yourself?

9 A During the legislative session, that was
10 the primary focus of everyone on the Governor's
11 staff, so everyone at the professional staff level
12 that had areas of expertise would have some
13 responsibilities with regard to legislative
14 initiatives affecting their respective areas of
15 responsibility.

16 Q What were your respective areas of
17 responsibility?

18 A My primary responsibilities had to do with
19 budget legislation, tax legislation, and legislation
20 that would have affected any of the regulatory
21 agencies. But I had general overall responsibility
22 for tracking legislation and then reviewing it once

1 it passed.

2 Q Have you been contacted by anyone working
3 with the White House or working with the Federal
4 Government since President Clinton was elected?

5 MR. PORTNOY: Has he spoken with anyone
6 with respect, oh, with respect to any particular
7 subject?

8 MR. BRENNER: I'm trying to find out at
9 this point whether or not he's spoken to anyone with
10 regard to perhaps working within the Federal
11 Government.

12 THE WITNESS: I had talked with the
13 President shortly after the election about a possible
14 interest in working with the Federal Government.

15 I have not talked with anybody since that
16 time, that I recall, regarding any intent to work in
17 the Federal Government.

18 BY MR. BRENNER:

19 Q What was the nature and extent of those
20 conversations?

21 A I had initially indicated to the President
22 that I would be interested in being considered for

24

1 appointment to the Federal Energy Regulatory
2 Commission.

3 Q When was the last time you recall speaking
4 with President Clinton?

5 A I think I spoke to him very briefly back
6 in the summer when he was in Little Rock.

7 Q Was that on a personal matter or
8 professional matter?

9 A I spoke to him very briefly at a
10 dedication of renovated apartments that were being
11 named in honor of a man who had been the director of
12 finance and administration during a good part of the
13 time that the President had been Governor. I was
14 present at that along with several hundred other
15 people, and shook hands and spoke to him briefly.

16 Q What was the name of the individual to
17 whom the project was being dedicated?

18 A Maitland Martin.

19 MR. NAPPI: And that was this summer?

20 THE WITNESS: Yes. I believe it was this
21 summer.

22 BY MR. NAPPI:

1 Q Do you recall the nature of the
2 conversation?

3 MR. COLE: Doug, I'd just like to note for
4 the record that the understanding that we have in
5 terms of taking depositions is that one lawyer will
6 do the questioning. We modified that recently for
7 some of these Arkansas depositions in that if one
8 lawyer is going to take a deposition on a particular
9 subject matter, and then another lawyer on a
10 different subject matter, we agreed to that. But the
11 understanding that we've had going forward in all of
12 these depositions is that one lawyer would ask the
13 questions so a witness is not subjected to cross
14 examination by two lawyers at the same time. That's
15 just the way we've done it.

16 MR. NAPPI: Fair enough.

17 MR. COLE: That's the way we've done all
18 these depositions up to this point.

19 MR. NAPPI: I apologize for that, Mr.
20 Bratton.

21 MR. BRENNER: I apologize, Mr. Bratton,
22 for not going perhaps as quickly as my colleague

1 would like.

2 BY MR. BRENNER:

3 Q Do you recall the nature of the
4 conversation?

5 A It was a ten-second hello-how-are-you,
6 good-to-see-you.

7 Q At that point, did you see the First Lady?

8 A No. I don't recall whether she was present
9 or not.

10 Q When was the last contact that you recall,
11 discussion or writing or any other kind that you had
12 with the First Lady?

13 A To the best of my recollection, it would
14 have been at a Christmas party at the White House --
15 not this Christmas but the Christmas before.

16 Q So that would be the Christmas of '94?

17 A Yes.

18 Q Was that a large event?

19 A There were probably 250, 300, 350 people
20 present. I'm never good at estimating crowds, but a
21 substantial crowd.

22 Q Did you come to Washington solely for that

1 event?

2 A Yes.

3 Q At that point, did you speak to Mrs.
4 Clinton?

5 A I had a very brief conversation with her,
6 as everyone went through a receiving line and had
7 their pictures made with the President and the First
8 Lady.

9 Q And at that point, did you also speak to
10 the President?

11 A Yes.

12 Q Did you have another ten-second
13 conversation with the President?

14 A If ten seconds.

15 Q Did you, when the President was Governor,
16 have any personal contacts with the Governor and the
17 First Lady?

18 A I'm not sure what you mean by personal
19 contacts.

20 Q Contacts in which your job
21 responsibilities were not the reason for your being
22 present at a discussion.

28

1 A Not particularly.

2 Q When you say not particularly, were there
3 such occasions?

4 A Oh, sure. There'd be periodically there'd
5 be some type of staff party at Christmas, and
6 occasionally maybe there'd be some type of social
7 occasion for staff people around the Fourth of July
8 or some holiday or something like that, where
9 everybody on the Governor's staff would be involved,
10 or most of them would be.

11 Q When you were working for Governor
12 Clinton, approximately how often would you have
13 contact with the Governor?

14 A Almost every day.

15 Q Were there certain issues that you
16 reported directly to the Governor, as opposed to
17 Betsy Wright or Maurice Smith?

18 A There would be occasions where I would
19 talk directly with the Governor without having first
20 talked to Betsy. It was a fairly open and informal
21 working relationship in the office.

22 Q Were there specific issues where you were

1 reporting on a regular basis directly to the
2 Governor, rather than through Betsy Wright?

3 A No.

4 Q Did you give any reports or advice to the
5 Governor about what would classically be considered
6 political matters, things not covered under your
7 general job responsibilities?

8 A To the extent that there were political
9 implications from legislation that was pending, from
10 other types of activities that might have involved
11 agencies that I worked with, I would certainly have
12 discussed what I perceived to be political
13 ramifications of those issues.

14 Q Do you recall any of the particular
15 issues?

16 A No. It would be any number of issues over
17 the course of the time I was in the Governor's office
18 that would have had some political ramifications for
19 one group or another.

20 Q Did you have frequent contact with Mrs.
21 Clinton while the President was Governor?

22 A Not frequent contact.

1 Q Was she in the office on a regular basis?

2 A No.

3 Q Was she in the office once a week?

4 A Probably not.

5 Q How often would you say that you'd see
6 Mrs. Clinton in the office in a given month?

7 A It was fairly rare to see her in the
8 Governor's office.

9 Q Did you ever do any work at the Governor's
10 mansion?

11 A Yes.

12 Q What sort of work did you do at the
13 Governor's mansion?

14 A There were meetings there on a fairly
15 regular basis, particularly during legislative
16 sessions or during the time work was being done in
17 preparation for legislative sessions.

18 Q Why would the work on those occasions be
19 done in the mansion as opposed to the office?

20 A Often times, meetings at the mansion were
21 in the evenings or on weekends.

22 Q When you were at meetings at the

1 Governor's mansion, as opposed to the office, did you
2 have the opportunity to see Mrs. Clinton?

3 A On some occasions.

4 Q Did she ever sit in on any of the
5 meetings?

6 A Yes.

7 Q Do you recall about which issues she sat
8 in on the meetings?

9 A Certainly education issues, particularly
10 in the fall of 1983, in preparation for the Special
11 Session on Education that occurred that fall. She
12 had chaired a committee that had done a lot of the
13 ground work in preparing for that.

14 She participated in various meetings in
15 subsequent years where education issues or children's
16 issues might be involved, certainly not all of the
17 meetings where those issues were being discussed, but
18 from time to time, would sit in on the meetings.

19 Q Do you recall any meetings that she sat in
20 on that were not education- or child-related
21 meetings?

22 A Sure.

1 Q Could you explain those to me?

2 MR. COLE: Mark, I understand the need to
3 get background and context from the witness, but I
4 take it that you're going to move into an area that's
5 within the scope of our resolution fairly directly,
6 as opposed to exploring areas that are not within the
7 resolution?

8 MR. BRENNER: Yes.

9 THE WITNESS: I don't recall specifically
10 what issues, but it was not unusual for her, from
11 time to time, to sit in on meetings that would be
12 going on.

13 BY MR. BRENNER:

14 Q Do you recall any of the meetings?

15 A Not specifically at this point.

16 Q Did you or anyone else find that in any
17 way to be peculiar?

18 A I didn't.

19 Q Did anybody else discuss with you what
20 their feeling was about her attendance at the
21 meetings?

22 A As far as I know, no one on the Governor's

1 staff found her participation at meetings peculiar.

2 Q How frequent was your contact with Betsy
3 Wright when she was chief of staff?

4 A Everyday.

5 Q Did you work closely together?

6 A Yes.

7 Q Would you say that your role was similar
8 to other professional staff members in the Governor's
9 office?

10 A I'm not sure I understand the question.

11 Q The relationship you had with Betsy
12 Wright, was it similar to the relationship other
13 professional staff members had with Betsy Wright?

14 A I had a very close working relationship
15 with Betsy. I was one of the senior staff people so
16 I probably worked more closely with her than other
17 people did. But other people had a similar working
18 relationship that I had with her, I'm sure.

19 Q Perhaps then you could flesh out how you
20 would describe the hierarchy. You said you were one
21 of the more senior people, and you stated that
22 Governor Clinton was at the top, and then Betsy

1 Wright was the next person in charge?

2 A Yes.

3 Q Could you maybe flesh out a little further
4 down the chain?

5 A Well, it changed from time to time.
6 Early, when I first went back in '83, the senior
7 staff people would have been Joan Roberts Watkins,
8 who was the press secretary. Carol Rasco who worked
9 primarily on health and human service type issues,
10 and myself and Bob Nash. Joan Watkins subsequently
11 left the staff. Nash and Rasco and I were all on the
12 staff through the time I left in 1989.

13 Q Would you say that you had more contact
14 than most of the other professional staff members
15 with the exception of Betsy Wright and the press
16 secretary?

17 A That I had more contact with?

18 Q Governor Clinton?

19 A Probably Watkins, Rasco, Nash, and I had
20 more or less the same amount of contact probably.

21 Q Did you do any work for any of the Clinton
22 gubernatorial campaigns?

1 A Not other than menial campaign-type work.

2 Q Could you describe the work that you did
3 for the campaign?

4 A I stuffed envelopes and did that sort of
5 thing. I did not have an official role in any of the
6 campaigns.

7 Q Did you have any discussions with the
8 Governor about the campaigns?

9 A Sure.

10 MR. COLE: Mark, can we go off the record
11 for a moment, if you don't mind?

12 MR. BRENNER: Sure.

13 (Discussion off the record.)

14 (Recess.)

15 MR. BRENNER: We can go back on the
16 record.

17 BY MR. BRENNER:

18 Q I was asking, I don't recall the answer,
19 about discussions you had with the President about
20 his gubernatorial campaigns. Did you have those
21 discussions with the President?

22 A I'm sure I had various conversations about

1 the campaigns during each and every one of the
2 campaigns.

3 Q Did you work on the President's
4 presidential campaign?

5 A I did a little bit of work, not much.

6 Q Could you describe the nature and extent
7 of that work?

8 A I did some work with Betsy Wright on
9 preparing responses to various questions that were
10 raised on a couple of utility issues, and on some
11 questions that she was dealing with members of the
12 press on involving ethics legislation that passed
13 during the President's administration as Governor.

14 Q Do you recall the utility issues?

15 A It largely had to do with the Grand Gulf
16 Nuclear Generating Unit owned by Entergy.

17 Q I wanted to move forward in terms of your
18 appointment to the Public Service Commission. Could
19 you explain briefly the background of how that came
20 about?

21 A I had indicated an interest to then
22 Governor Clinton in being considered for an

1 appointment to that Commission and he appointed me to
2 it.

3 Q Was this one conversation?

4 A Oh, I had several conversations with him
5 over a period of a few months, I'm sure.

6 Q I was curious. You mentioned utility
7 issues and Grand Gulf. Were there other utility
8 issues?

9 A In terms of what?

10 Q In terms of Betsy Wright and the campaign?

11 A I think Grand Gulf was the main thing.

12 Q Was there any less main thing?

13 A Not that I recall.

14 Q Have you ever heard of a company called
15 Castle Sewer and Water or Castle Water and Sewer?

16 A Yes.

17 Q When did you first hear of them?

18 A Probably shortly after, late in or shortly
19 after the legislative session in I believe it was
20 1987.

21 Q When you say legislative session, you mean
22 the non-special legislative session?

1 A The regular session of the Arkansas
2 General Assembly in 1987.

3 Q How did Castle Sewer and Water come to
4 your attention?

5 A The Governor had vetoed a piece of
6 legislation that would have deregulated small water
7 and sewer companies that fit into a very limited
8 definition contained in the bill. After it was
9 vetoed, I subsequently became aware that it would
10 have pertained to Castle Water and Sewer.

11 Q You stated you worked for Jim Guy Tucker.
12 Did you know if Jim Guy Tucker had an investment in
13 Castle Sewer and Water, or Castle Water and Sewer?

14 A No.

15 Q Did you have any discussions with Mr.
16 Tucker related to the veto or the proposed
17 legislation for the Special Session?

18 A I had a conversation or two with him
19 subsequent to the veto of the legislation.

20 Q Did you have conversations with anybody
21 else related to either the vetoed legislation or the
22 subsequent legislation which passed the Special

1 Session?

2 A It is my general recollection, but I don't
3 recall the specifics of it, but I probably had at
4 least one conversation with R.D. Randolph.

5 Q Who is R.D. Randolph?

6 A R.D. Randolph was the owner of Castle
7 Water and Sewer, or at least my impression was that
8 he was the owner.

9 Q What else at that time did you know about
10 R.D. Randolph?

11 A I didn't know much about him specifically.
12 I'd heard his name before.

13 Q How did you become aware that the
14 legislation which was vetoed applied to Castle?

15 A Probably in a conversation with Randolph,
16 I imagine, or with Governor Tucker. But I think
17 probably first from a conversation with Randolph.

18 Q Did you know R.D. Randolph before your
19 contacts with him on this issue?

20 A I'd met him once or twice but I didn't
21 know him.

22 Q Do you recall how you met him?

40

1 A No, not particularly. I think I met him
2 somewhere in and around the capital.

3 Q Did you look at House Bill 1780, which is
4 the vetoed legislation, at any time before the
5 President vetoed it?

6 A Yes.

7 Q When was that?

8 A I don't recall specifically when I first
9 looked at it, probably at some point during its
10 passage through the General Assembly.

11 Q Did you have discussions during that time,
12 during that preliminary stage with any members of the
13 legislature?

14 A I don't recall that I did.

15 Q Any of their staffers?

16 A I don't recall whether I did or not.

17 Q Do you recall having discussions with
18 anyone from the Public Service Commission, either
19 staff or a member?

20 A I did talk with then Commission Chairman
21 Robert Johnston about the bill on at least one
22 occasion perhaps.

1 Q What prompted you to have that discussion?

2 A Because it pertained to the Public Service
3 Commission's jurisdiction. And where legislation
4 pertained to the operation of an agency, it would be
5 my normal practice to talk with the agency personnel
6 about the pending legislation.

7 Q Did the agency personnel support the
8 legislation?

9 A Johnston had some concerns about the bill,
10 as I recall.

11 Q Do you recall what those concerns were?

12 A Not specifically.

13 Q Did you make any recommendations that then
14 Governor Clinton about the bill?

15 A I ultimately recommended that the bill be
16 vetoed.

17 Q Why did you make that recommendation?

18 A Because it was, in my view, special and
19 local legislation in contravention of a provision of
20 the Arkansas Constitution that prohibits passage of
21 special and local legislation.

22 Q Could you explain briefly what that is?

1 A What special and local legislation is?

2 Q What special and local legislation is and
3 the constitutional provisions.

4 A I don't recall what article and what
5 section offhand, but there's a provision that
6 prohibits passage of special and local legislation.
7 The legislation, as I recall, in question would have
8 applied to small water and sewer companies that were
9 located within so many miles of a first class city
10 with a population in excess of 130,000 or 150,000.
11 In essence, it was written in such a way that it
12 would be limited to a very small number, perhaps one,
13 but clearly a very small number of small water and
14 sewer companies, and would not have applied to
15 similarly situated water and sewer companies that
16 weren't located within x miles of a city of the first
17 class with 150,000 people or whatever it was.

18 Q So you recommended the veto on the basis
19 of the fact that you believed the bill to be
20 unconstitutional?

21 A That's correct.

22 Q Did you talk to Jerrell Clark,

1 J-E-R-R-E-L-L, or Doug Strock, about the proposed
2 legislation?

3 A I may well have talked to Jerrell. I
4 don't recall that I talked to Strock.

5 Q Do you recall whether or not Mr. Clark
6 supported the legislation?

7 A I think Jerrell had some concerns about it
8 is my recollection.

9 Q I'd like to show you Exhibit 1 which is
10 Bates stamped DKS N 024749 through DKS N 024802. It's
11 a high security document memorandum to Jerrell Clark
12 from Doug Strock about proposed legislation for 1987.
13 It's dated June 24, 1986.

14 I'd like specifically to turn your
15 attention to page two, which is DKS N 024750, and
16 under the heading "E".

17 (Handing document to witness.)

18 BY MR. BRENNER:

19 Q If you could read that to me.

20 A Divest PSC of jurisdiction over small
21 water and sewer companies, this bill redefines public
22 utility to exclude small water and sewer companies

1 not meeting the criteria for class A companies. The
2 bill allows the customers of such utilities to
3 condemn the facilities, if necessary, by forming a
4 suburban improvement district to compensate for
5 whatever protection is currently afforded by PSC
6 jurisdiction, assuming that PSC has jurisdiction.

7 Q Thank you.

8 So when you said that the people you spoke
9 to from the Public Service Commission had concerns
10 about the legislation, I guess I'm a little confused,
11 because it seems to me that according to this memo,
12 this is legislation that they may in fact be
13 supportive of?

14 A Well ultimately Johnston indicated the
15 Commission was supportive of the legislation that
16 finally passed that was applicable to all small water
17 and sewer companies.

18 Q So the legislation that finally passed was
19 markedly different from the legislation 1780?

20 A Well, it basically exempted from PSC
21 jurisdiction, as I recall, all small water and sewer
22 companies that met a certain definition, rather than

1 merely applying to a very limited number, which 1780
2 did.

3 And what the Strock memo refers to
4 apparently would be a type of situation where the
5 jurisdiction of the PSC would not be applicable if
6 the small water and sewer system in essence was owned
7 by all its customers. I think that's the reference
8 to some type of improvement district, which is a
9 different thing than exempting those that might have
10 other ownership forms.

11 Q After the veto of the legislation, do you
12 recall when the veto of House Bill 1780 occurred?

13 A Not specifically. It was very late in the
14 legislative session or perhaps after the session had
15 concluded.

16 Q Were there other staff members involved in
17 making the veto recommendation?

18 A I don't recall whether there were or not.

19 Q Looking at the first legislation which was
20 vetoed, were there any other companies that you
21 recall, other than Castle Sewer and Water, that the
22 legislation applied to?

1 A I don't recall now whether there were any
2 others.

3 Q After the bill was vetoed, do you recall
4 your next contact with anyone who wished to revisit
5 the issue of the veto and possible frame new
6 legislation for a special session?

7 A I think the first conversation that I
8 probably had with anybody else was a conversation
9 with R.D. Randolph.

10 Q Do you recall how that conversation came
11 about?

12 A No.

13 Q Do you recall when that conversation
14 occurred?

15 A Some time fairly shortly after the
16 legislation had been vetoed.

17 Q You stated that the veto occurred toward
18 the end or at the end of the legislative session or
19 thereabout. Would that be approximately in late
20 March or early April?

21 A That sounds right.

22 Q I would like to show you what's been

1 marked as DKRT 800572, produced by the RTC to the
2 House Committee on Banking and Financial Services,
3 and it's now public record.

4 (Handing document to witness.)

5 BY MR. BRENNER:

6 Q Could you describe that document for me,
7 please?

8 A Well, it's a memorandum to B.C. from N.H.

9 Q Who are B.C. and N.H.?

10 A I would assume B.C. is Bill Clinton, and
11 N.H. is Nancy Hernreich.

12 Q Who is Nancy Hernreich?

13 A At that time she was the staff person on
14 the Governor's staff that was responsible for
15 scheduling the Governor's time appointments.

16 Q Could you spell her name for the record?

17 A H-E-R-N-R-E-I-C-H, I believe.

18 Q What was her position exactly?

19 A She was the Governor's scheduling staff
20 person.

21 Q And this is dated April 14th?

22 A Yes.

1 Q Do you see handwritten or a photocopied
2 version of handwritten words or letters at the bottom
3 left and bottom right hand corners of this document?

4 A Yes.

5 Q Do you recognize the handwriting?

6 A The handwriting on the bottom right
7 appears to be Betsy Wright's handwriting.

8 Q And the handwriting on the bottom left?

9 A I'm not sure whose handwriting it is.

10 Q I understand there's a large CONFIDENTIAL
11 stamp across the front of the note, but could you
12 read, to the best of your ability?

13 A Mr. Randolph dropped by to --

14 Q May be see you.

15 A -- see you this morning to talk to you
16 about the water bill you vetoed. He said that he
17 talked to you on Sunday morning. He wants to know if
18 the veto is going to stand. He would like you to
19 call Jim Guy Tucker.

20 I don't know whether there's another word
21 there. I can't read it.

22 He said that he has a difficult time

1 getting an answer from -- blanked out --. He
2 mentioned a meeting between you, Tucker, and McDougal
3 -- blanked out -- of years ago, which involved
4 \$33,000. This was pretty -- again blanked out -- he
5 seemed angry. Someone, I think he prefers you --
6 something blanked out -- call Tucker.

7 Q And CC SB 415 down in the left hand corner
8 is a copy that you received?

9 A I assume so.

10 Q And in the lower right hand corner, could
11 you indicate what that might say?

12 A See if Sam could call him, I think is what
13 it seems to say.

14 Q Do you recall calling R.D. Randolph?

15 A I had a conversation. I recall generally
16 having a conversation with Randolph. I don't
17 remember whether it was on the phone or whether it
18 was in the office.

19 Q Do you recall seeing this memo?

20 A I'm sure I did.

21 Q In a case like this, how would you get
22 this memo? What was the chain?

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1 A I assume it would have been in my in box.

2 Q Did you have only one conversation with
3 Mr. Randolph?

4 A I don't remember I had one conversation
5 with him, or perhaps a second one.

6 Q Could you describe the conversation to the
7 best of your recollection?

8 A I only generally have a recollection that
9 he was very upset that the legislation had been
10 vetoed. I think his point was that it had passed
11 more or less without opposition and he didn't
12 understand why the Governor felt it necessary to veto
13 it if it had passed without any particular
14 opposition.

15 Q What did you say to him?

16 A That the legislation had been vetoed
17 because of a constitutional problem.

18 Q At that point, did you enter into any
19 discussions about possibly tailoring a new bill?

20 A I don't recall whether I did or not.

21 Q Was your contact with Mr. Randolph
22 prompted by this phone message, this contact message?

1 A I don't recall whether I had already had a
2 conversation with Randolph before that or not. I
3 think there's some possibility that he may have
4 talked to me before he talked to the Governor. But
5 it's been so long, I don't recall that for sure.

6 Q Do you recall, or do you know what he's
7 talking about when he talks about the \$33,000?

8 A No, I don't.

9 Q Have you come to learn through any method
10 what the \$33,000 was?

11 A No.

12 Q Have you ever talked to Mr. Tucker about
13 the \$33,000?

14 A No.

15 Q Have you ever talked to Mr. McDougal about
16 the \$33,000?

17 A No.

18 Q Have you ever talked to Betsy Wright about
19 the \$33,000?

20 A Not that I recall.

21 Q Have you ever talked to then Governor
22 Clinton about the \$33,000?

1 A No.

2 Q Was there any discussion that you'd become
3 aware of about the \$33,000 mentioned in this memo?

4 A Not that I have any recollection of.

5 Q Did you talk to Mr. Tucker about the
6 vetoed legislation?

7 A Yes, I did.

8 Q Do you recall when that was?

9 A Some time after the date of that memo I'm
10 sure.

11 Q Would it have been in the spring of 1987?

12 A I assume it would have been some time
13 shortly after the date of that memo, I would think.

14 Q Do you recall the substance of the
15 conversation you had with Mr. Tucker?

16 A I think I had one, possibly two,
17 conversations with him that were in the general
18 nature of what could be done to enact legislation
19 that would address the constitutional problem.

20 Q Why are you certain that you spoke with
21 Mr. Randolph first?

22 A That's my recollection at this point. I'm

1 not absolutely certain, but I think that we heard
2 from Randolph immediately after the bill was vetoed.
3 And it is my general impression that he talked to me
4 before he talked to the Governor. That would
5 normally, if someone had called expressing concern
6 about what we had done, either signing or vetoing a
7 bill, that that call would actually have been routed
8 to me. And I think it was probably accurate that if
9 he was not satisfied with the answer he got from me,
10 that he would have talked to the Governor. I don't
11 recall that specifically, but I think that is
12 probably what happened.

13 Q So Mr. Tucker wasn't satisfied with his
14 discussion with you about the veto?

15 A I was referring to Randolph.

16 Q I understand.

17 When you spoke with Mr. Tucker, do you
18 recall what prompted you to call? Did you call Mr.
19 Tucker?

20 A Yes, I believe I called Mr. Tucker. I
21 think the reference in the memo to see if Sam could
22 call him was a suggestion that I call Tucker, not

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1 call Randolph. I think I called him. He may have
2 called me, but I believe I may have called him.

3 Q Did you have only one conversation with
4 Mr. Tucker about this?

5 A Probably at least two, maybe three.

6 Q Were there any documents exchanged between
7 you and Mr. Tucker?

8 A Not that I recall at this point.

9 Q Do you recall seeing a letter -- and I'll
10 show it to you. It doesn't have a Bates stamp. It's
11 April 24th, 1987 letter to the Honorable Bill
12 Clinton, Governor on Mitchell, Williams, Selig &
13 Tucker stationery from Jim Guy Tucker.

14 (Handing document to witness.)

15 BY MR. BRENNER:

16 Q That's regarding House Bill 1780 which is
17 the vetoed legislation.

18 (Pause.)

19 A I'm sure I probably did. I don't recall
20 it specifically but I'm sure I did.

21 Q At the bottom of the first page, the last
22 sentence, "if the member of your staff who suggested

1 a veto has any questions or desires, revisions in its
2 form, we certainly hope Representative Walker,
3 Representative Wilson, R.D. or I will be given the
4 opportunity to respond."

5 Were you that member of the staff?

6 A I'm sure I was.

7 Q Did you discuss the veto or the subsequent
8 special session legislation which is Act 37 of 1987
9 with Representative Wilson or Representative Walker?

10 A I don't recall specifically talking with
11 either Representative Walker or Representative
12 Wilson. I probably did talk to Representative
13 Wilson.

14 Q Did you draft what eventually became Act
15 37 of 1987?

16 A I don't believe I did.

17 Q I'll just show you what's been marked as
18 DKS N 024856 through DKS N 024859. It's Act 37 of
19 1987, House Bill 1047.

20 (Handing document to witness.)

21 THE WITNESS: Yes.

22 BY MR. BRENNER:

1 Q Do you recall discussing with anyone this
2 bill, this Act?

3 A I don't recall specific discussions, but
4 I'm sure I did.

5 Q Who would you have talked to about that?

6 A My guess is I probably talked to
7 Representative Wilson and the Governor and perhaps
8 others.

9 Q Would you have talked to Betsy Wright?

10 A I'm sure I probably did.

11 Q Do you recall preparing a review or an
12 analysis of Act 37?

13 A I don't recall.

14 Q Would it have been your standard procedure
15 to prepare an analysis?

16 A I would have looked at that legislation.
17 I might or might not have prepared a written analysis
18 of it.

19 Q Would you have prepared a Governor's
20 message upon signing the bill into law?

21 A There was no Governor's message on signing
22 the bill. There is only a Governor's message on

1 vetoing a bill.

2 Q You prepared the Governor's message on the
3 veto of 1780?

4 A Yes, I believe I did.

5 Q When you reviewed legislation, did you
6 have a standing practice in terms of did you
7 memorialize to the Governor in writing your
8 recommendations?

9 A In a regular session of the General
10 Assembly, it was the normal practice that there would
11 be a comment sheet for every piece of legislation
12 that would be assigned to some staff member to review
13 it, and there would be some comment by that staff
14 member including a letter grade from A to F on that
15 coversheet.

16 We did not always do that in a special
17 session. I think we did most of the time.

18 Q How often did you have special sessions?

19 A We probably averaged a special session at
20 least once a year.

21 Q How many bills would be reviewed during a
22 special session on average?

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1 A It's hard to say on average.

2 Q I'll ask a more direct question.

3 How many bills were reviewed in 1987
4 during the special session?

5 A I don't recall offhand. There may have
6 been -- I don't know how many items were on the call.

7 Q I'll have to go back to the other question
8 of, on average, how many bills?

9 A Sometimes a call could have as few as
10 maybe ten or 12 items. Sometimes a call might have
11 40 or 50 items, so it's hard to say what an average
12 would be.

13 Q Did Governor Clinton express to you his
14 willingness to work out a compromise that would be
15 suitable to Jim Guy Tucker and R.D. Randolph with
16 regard to Act 37?

17 A I don't recall a specific conversation and
18 what was said. Obviously that did occur because that
19 legislation was considered in special session, which
20 meant it would have been put on the call for the
21 special session by the Governor when he called the
22 session.

1 Q Was the special session just for this
2 bill?

3 A No.

4 Q Do you recall the other issues or other
5 bills that were addressed in the '87 special session?

6 A It is my recollection that the primary
7 reason that session was convened was to deal with an
8 income tax credit for contributions to institutions
9 of higher education that the Governor had signed
10 during that regular session, but that subsequent
11 information about that legislation led the Governor
12 and officials of the Department of Finance
13 Administration to conclude that it would have had a
14 much more significant fiscal impact than originally
15 had been anticipated. And the primary reason for
16 convening that session was to revise that piece of
17 legislation.

18 Q Did you discuss with anyone else, other
19 than the Governor, your discussions with R.D.
20 Randolph and Jim Guy Tucker?

21 A I'm sure I probably talked to Betsy about
22 it.

1 Q Did Betsy relay to you the desire of the
2 Governor or her desire to work out a compromise with
3 Jim Guy Tucker and R.D. Randolph?

4 A I don't recall the specifics of the
5 conversation I had with Betsy in which she indicated
6 what her desires were.

7 Q Do you recall generally if she indicated
8 what her desires were?

9 A No.

10 Q Did you have discussions with anyone else
11 other than in the Governor's office or Mrs. Clinton?

12 A I don't recall having talked with Mrs.
13 Clinton about it. I may have talked with somebody
14 else from the Governor's staff, but I don't know who
15 that would have been.

16 Q Was there normally somebody else that you
17 would talk to about these things?

18 A Not on this particular piece of
19 legislation, because it basically involved an agency
20 that I had responsibility for. If there were
21 legislation that involved an agency that I didn't
22 have primary liaison responsibility for, I would

1 have. But in this instance, I had the liaison
2 responsibility with the relevant agency.

3 Q Why was there a need for you to find a
4 compromise if you viewed your original constitutional
5 decision as a good one?

6 A Well, the objection was to the bill as it
7 was drawn to limit the exemption to a very limited
8 number of companies.

9 As had been indicated in the Strock memo,
10 the Public Service Commission had previously
11 entertained some thoughts about deregulation of small
12 water and sewer companies in some general way.

13 Q But you also indicated that in your
14 discussions with the Public Service Commission that
15 they did have concerns about it.

16 A It is my recollection that Robert Johnston
17 had some concerns about the bill that was vetoed.

18 It is also my recollection, as I
19 previously indicated, that the bill that provided a
20 general exemption was supported by the Commission.

21 Q What were his concerns about the first
22 bill which was vetoed?

1 A It's my recollection that he thought we
2 ought to either regulate all of them or get out of
3 the business of regulating very small water and sewer
4 companies.

5 Q Was it the position taken by the Public
6 Service Commission, as a general rule, that less
7 regulation in the 1980s was preferred?

8 A No.

9 Q During the 1980s, would the Arkansas
10 Public Service Commission more frequently regulated
11 or moved toward regulation or moved toward
12 deregulation?

13 A I don't believe either at that point.

14 Q You think during the 1980s there was no
15 change in the amount of regulation that the Public
16 Service Commission was undertaking?

17 A Not particularly.

18 As a matter of general philosophy, the
19 concern with small water and sewer companies was that
20 for the very small companies, the cost of going
21 through a rate proceeding might well, which the
22 company could then recover in rates, might well

1 exceed any benefits afforded the customers by PSC
2 jurisdiction.

3 Q Was this move toward deregulation unusual?

4 A Well the concern was limited to a very
5 limited type and size of company.

6 Q In terms of compromises, there are
7 certainly many levels of compromise. It would seem
8 to me that the Public Service Commission would take a
9 position that it was better to decrease the amount of
10 regulation, rather than to strip them of any
11 authority for regulation.

12 A I don't know what the preference of the
13 Commission might have been for a range of options.

14 What I know is that, based on my
15 recollection at this point, is that when the revised
16 legislation was produced for the special session,
17 that Robert Johnston communicated to me that the
18 Public Service Commission was not opposed to that
19 legislation.

20 Q Did they indicate their support?

21 A They indicated that they would not be
22 taking any position, and that they did not oppose it,

1 is my recollection.

2 Q Which, as you understand it, is not their
3 support of the legislation?

4 A It was not uncommon for agencies to just
5 take a no-position.

6 Q The question is, this was definitely not
7 support of the legislation by the Public Service
8 Commission? Is that correct?

9 A It is my impression that Robert Johnston,
10 as Chairman of the Commission, who I talked to -- I
11 don't recall that I talked to the other members of
12 the Commission -- thought that the Commission would
13 be better off not spending time and resources trying
14 to identify and set rates for small water and sewer
15 companies.

16 Q I already showed you the Jim Guy Tucker
17 letter which is dated April 24th, 1987?

18 A Yes.

19 Q When you prepared the veto message on
20 1780, did you at that point or any point before your
21 discussions with Jim Guy Tucker, consider working on
22 new language which would fit within the constitution?

1 A I don't recall that I did.

2 Q So it would be fair to say that your
3 discussions with Jim Guy Tucker and the President's
4 referring this issue to you to take care of was what
5 prompted you to reach a compromise?

6 A It is my recollection that the legislation
7 was vetoed very, very late in the session, or perhaps
8 even after the session was over, which is why there
9 wasn't another bill introduced in that session by the
10 people who were interested in the passage of the
11 original bill.

12 Q Okay. But in other words, neither of the
13 legislators that sponsored the original bill, or
14 nobody else contacted you about the bill.

15 What prompted you to find a compromise was
16 what you indicated earlier, the President appeared as
17 if he'd like to work something out. Is that correct?

18 A I think that saying that then Governor
19 Clinton wanted to work out a compromise is not
20 necessarily an accurate characterization.

21 I think a more accurate characterization
22 was that if the proponents of the legislation could

1 craft an alternative that avoided the constitutional
2 defects in the original bill, that he would be
3 willing to consider including it in a special session
4 at some point in the future.

5 Q Are you aware of any discussions between
6 Governor Clinton and R.D. Randolph about this?

7 A No, I'm not.

8 Q Are you familiar with -- have you come to
9 have any knowledge of any discussions between
10 Governor Clinton and Jim Guy Tucker about the Castle
11 Sewer and Water legislation?

12 A Not that I recall directly. It's
13 certainly possible that they talked but I don't
14 recall one way or another.

15 Q Just to be clear, I'm not asking whether
16 or not you heard it from the Governor directly. I'm
17 asking even if Betsy Wright or some other third party
18 mentioned that conversation, if there was that
19 conversation, to you?

20 A I don't specifically recall.
21 (Pause.)

22 MR. BRENNER: Can we go off the record?

1 (Discussion off the record.)

2 (Recess.)

3 MR. BRENNER: Can we go back on the
4 record?

5 BY MR. BRENNER:

6 Q You wrote the veto message on 1780, do you
7 recall?

8 A That's my recollection. I normally wrote
9 the veto messages.

10 Q Did anyone else give any input on this
11 legislation in the Governor's staff or anyone else?

12 A Another person who I would have talked
13 some about it probably was Joan Vehik.

14 Q And who was that?

15 A Joan Vehik is a lawyer by training who
16 does not practice, but for a number of years has
17 worked legislative sessions for various Governors,
18 going back I think to when David Pryor was Governor,
19 as the person who interacted with the General
20 Assembly in receiving bills, logging them in, taking
21 care of all the mechanics of making sure all the
22 process was appropriately accounted for. And Vehik

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1 and I were normally the people who took legislation
2 in to be signed or vetoed by the Governor. So I'm
3 sure I would have talked to Vehik some about the bill
4 just because we generally talked about.

5 Q And was his impression the same as yours?

6 A She, Joan.

7 Q I thought you said John. I apologize.

8 A I don't recall. I think it probably was.

9 Q Could you spell.

10 A V-E-H-I-K.

11 Q In the veto message, or at the time of
12 drafting the veto message, did you at that point
13 consider other possible legislation to fill this
14 niche?

15 A Not that I recall. As I previously said,
16 it's my recollection it was very late in the session,
17 or perhaps the session was already over.

18 Q Just to be clear, because I'm not sure
19 that I was earlier, when did you first become aware
20 that R.D. Randolph or Jim Guy Tucker were interested
21 in the outcome of the legislation?

22 A It's my recollection that the first time I

1 knew of either of their interest was after the bill
2 had been vetoed.

3 Q I showed you a letter earlier dated
4 April 24, 1987, from Jim Guy Tucker to Bill Clinton,
5 and we discussed it.

6 I'd like to show you at this point a
7 letter dated April 27, 1987 on Castle Sewer and Water
8 Corporation stationery, to Mr. Jeffrey B. Stern at
9 Intersoll & Block from Jim Guy Tucker.

10 (Handing document to witness.)

11 BY MR. BRENNER:

12 Q I would ask that you read below "Dear
13 Jeff,"

14 A Governor Clinton vetoed HV 1780. He has
15 told R.D. Randolph and the sponsors that the veto was
16 an error he will correct if there's a special
17 legislative session. Such a special session is
18 generally expected but not guaranteed. If held, it
19 could come as early as June or as late as September.
20 This legislation is needed critically for the
21 utility. I suggest we complete our contract, execute
22 it, and wait to see if a session develops.

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1 Effectiveness of the contract will depend on the
2 enactment of the legislation.

3 Q Thank you.

4 I asked you earlier whether or not you
5 knew if R.D. Randolph had talked to Governor Clinton.
6 I was hoping this might refresh your recollection
7 that perhaps there was a conversation between
8 Governor Clinton and R.D. Randolph?

9 A I simply don't remember whether anybody
10 told me that there was or not. It wouldn't surprise
11 me at all if there was a conversation. I simply have
12 no recollection at this point of knowing whether
13 there was or not.

14 Q When you spoke to Jim Guy Tucker about the
15 legislation, did he mention to you any of the facts
16 surrounding his purchase of the Castle Sewer and
17 Water?

18 A Not that I recall at this point.

19 Q Did he make any statements to you or
20 representations to you about the potential
21 involvement of the Rose Law Firm or Hillary Clinton
22 in litigation, should the bill not be compromised?

1 A Not that I recall.

2 Q Has anybody else mentioned to you or made
3 representations to you that there may be a problem
4 for the Rose Law Firm or for Hillary Clinton should
5 what became Act 37 not pass?

6 A Not that I recall.

7 Q I'd like to show you a memo from the
8 Office of the Governor, DKRT 800574A. It appears to
9 be a memo from you to the Governor. The subject is
10 Sewer District Regulation Legislation, Jim Guy
11 Tucker, R.D. Randolph, Mike Wilson, Bill Walker.

12 (Handing document to witness.)

13 BY MR. BRENNER:

14 Q Could you please take a look at that?

15 MR. PORTNOY: Could you tell me again the
16 date on that?

17 MR. BRENNER: May 19, 1987.

18 (Pause.)

19 THE WITNESS: Yes.

20 BY MR. BRENNER:

21 Q Do you recall writing this memorandum?

22 A I don't specifically recall writing it.

1 Q Does this reflect a memorandum you may
2 have written?

3 A Yes.

4 Q Could you read for me the last paragraph
5 of the memorandum?

6 A According to Tucker, if the legislation
7 exempting certain water and sewer companies from PSC
8 regulation is not enacted in the special session,
9 litigation will probably be initiated between the
10 Madison Guaranty and the company owning the utility
11 and that the initiation of litigation between those
12 two parties would likely -- and I can't read the next
13 word -- maybe negate the possibility of the utility
14 expanding its operation -- and I can't read what's
15 blacked out there -- of arrangements with the City of
16 Wrightsville. I assume -- and I can't see what the
17 next word is -- litigation would result because of
18 the question of the validity of the mortgage and the
19 fact that the S&L is now being operated independent --
20 something.

21 Q Or under?

22 A Operated under, yes, perhaps, the close

1 scrutiny of FSLIC and is no longer controlled by
2 McDougal.

3 Q Do you see the initials on the lines next
4 to Sam?

5 A Yes.

6 Q Are those your initials?

7 A Yes.

8 Q Is that your writing?

9 A It appears to be.

10 Q I asked you just a few minutes ago about
11 the possibility of litigation that may have in some
12 way involved the Rose Law Firm or Hillary Clinton.

13 Does this refresh your recollection at all
14 about your discussion with Jim Guy Tucker?

15 A I don't recall the Rose Law Firm or
16 Hillary Clinton being mentioned in the context of the
17 litigation or potential litigation that's referred
18 to.

19 Q At the time, May 19, 1987, did you know
20 who Jim McDougal was?

21 A Yes.

22 Q How did you know that?

1 A He had worked on Clinton's staff during
2 Clinton's first term as governor for a period of
3 time.

4 Q What else did you know about Jim McDougal?

5 A I knew who he was.

6 Q When you say you "knew who he was..."

7 A I knew he owned Madison.

8 Q Did you know that he was a partner or an
9 investment partner with the Clintons in any ventures?

10 A I was generally aware.

11 Q How were you made generally aware of that?

12 A I don't recall.

13 MR. COLE: Just so the record's clear,
14 that was something you knew at the time of this
15 memorandum, or something you learned subsequent to
16 that time?

17 THE WITNESS: I think I probably knew it
18 at that time.

19 BY MR. BRENNER:

20 Q Do you recall how you came to prepare this
21 memo?

22 A Well, I assume it is a follow-up to the

1 memo, the April memo that had been copied to me, with
2 a direction for me to call Tucker.

3 Q So my question really is, where did the
4 information come from that you put in this memo?

5 A I assume it largely came from my
6 conversation with Jim Guy Tucker.

7 Q Were there any other sources of
8 information?

9 A I don't recall.

10 Q Was it possible that R.D. Randolph was
11 another source of information?

12 A I think most of what is in this
13 information that is contained in this memorandum was
14 based on one or more conversations I had with Jim Guy
15 Tucker. There may have been some part of it that I
16 got from an earlier conversation with Randolph, but
17 it is my general recollection that Randolph was not
18 very specific in the conversation I had with him
19 about what problems were being created by the veto of
20 the legislation; merely that it was creating
21 problems.

22 Q Why would litigation be an important issue

1 to mention to the governor in this matter?

2 A I was simply providing the governor with
3 all the information that had been provided to me
4 regarding the background of the legislation.

5 Q When Tucker mentioned it to you, what was
6 your impression of why Tucker thought making these
7 statements about litigation against McDougal would be
8 important?

9 A My recollection is that simply it was
10 providing me with the background on why the
11 legislation had been proposed.

12 Q Were you aware at the time of preparing
13 this memo that the Rose Law Firm had represented
14 Madison Guaranty on issues relating to the sale of
15 the Castle Sewer and Water utility?

16 A Not to my recollection.

17 Q Did Mr. Tucker perhaps mention to you in
18 any way Mrs. Clinton's involvement, or the Rose Law
19 Firm's involvement with Mr. McDougal in Castle Sewer
20 and Water?

21 A Not that I recall.

22 Q Did you copy Betsy Wright on this memo?

1 A No. But I'm sure she probably saw it.

2 Q Did Betsy Wright ever mention to you
3 anything related to the information in the memo?

4 A She and I probably talked about it at some
5 point.

6 Q Do you have any recollection of that
7 conversation or of any back-and-forth documents?

8 A No.

9 Q Did Jim Guy Tucker make any mention to you
10 of the Rose Law Firm or Hillary Clinton in any
11 discussions you had with him related to Castle Sewer
12 and Water or the veto?

13 A Not that I recall.

14 Q Did Mr. Tucker present to you at any time
15 a copy of proposed legislation to perhaps fill the
16 constitutional requirement that the previous
17 legislation failed?

18 A I don't recall specifically. But I would
19 imagine that at some point before the item was put on
20 the call for the special session, I would have seen a
21 copy of the proposed legislation either from Tucker,
22 from Mike Wilson, or from legislative counsel's

1 staff.

2 Q I'm sorry. Who's Mike Wilson?

3 A He was the lead sponsor of the original
4 bill.

5 Q Was it often the case when you were
6 dealing with legislation that individuals who sought
7 to have legislation passed would mention potential
8 litigation should the bill fail?

9 A If that had some relevance to the
10 legislation, it certainly wouldn't have been
11 uncommon.

12 Q Did you see the relevance here to Mr.
13 Tucker's mention of litigation? Did it have an
14 impact on you?

15 MR. COLE: You mean beyond what the memo
16 says in this instance? The memo speaks for itself.

17 MR. BRENNER: Yes.

18 BY MR. BRENNER:

19 Q I'm trying to determine, in terms of your
20 conversation or conversations with Mr. Tucker, what
21 would prompt him or what would make think that it
22 would trigger in you a response that he mentioned

1 potential litigation against Madison?

2 A As I said before, my conversation with him
3 was to get a complete background of why the
4 legislation had been introduced in the first place.

5 Q Would it make a difference to the governor
6 that there would be litigation between two private
7 parties in terms of deciding to veto the legislation?

8 A I don't know whether it would or not.

9 Q Did the governor prior to this make any
10 statements that you know of that said that he
11 supported low-cost, good service -- utility services?

12 A Sure, in a very general way involving
13 issues that had been pending before the Public
14 Service Commission when he'd been attorney general,
15 and he represented ratepayers; and probably in other
16 campaign issues where utility issues were a campaign
17 issue.

18 MR. COLE: Would you be surprised if he
19 said that he supported high-cost, poor services from
20 utilities?

21 (Laughter.)

22 BY MR. BRENNER:

1 Q I ask that because I wanted to know if the
2 then-governor ever mentioned to you that he had had
3 discussions or contacts or communications with R.D.
4 Randolph between the years 1982 and 1984 in which he
5 and Mr. Randolph discussed the governor's stance in
6 favor of regulation of these utilities to provide
7 low-cost service?

8 A I don't recall any such conversation with
9 the governor.

10 (Pause.)

11 Q Did Mr. Tucker at that point explain to
12 you in any way the relevance of the litigation
13 between the two private parties in terms of the
14 legislation?

15 A To the extent that it's reflected in this
16 memo, clearly he explained the background of it. I
17 don't have any recollection that there was any
18 explanation beyond what's set forth in the
19 memorandum.

20 Q You stated earlier that you knew Jim
21 McDougal, and you knew that he owned the bank.

22 What was your understanding of his

1 relationship to Governor Clinton?

2 A I knew that they knew each other, and I
3 was aware at some point -- probably prior to the date
4 of this memorandum -- that then-Governor Clinton and
5 the First Lady were involved in some type of land
6 deal that involved McDougal.

7 Q With regard to their relationship, in your
8 discussions with Mr. Tucker, did Mr. Tucker's mention
9 of Mr. McDougal prompt in you a memory of your
10 knowledge of the relationship between Governor
11 Clinton and Mr. McDougal?

12 A Not that I recall.

13 Q Had you seen Mr. McDougal in the office at
14 any time?

15 A I'm sure I did.

16 Q Approximately how often would Mr. McDougal
17 come to the governor's office?

18 A Fairly rarely.

19 Q When you were at the governor's mansion,
20 as you mentioned, there were often meetings at the
21 governor's mansion.

22 Did Mr. McDougal ever stop by the

1 governor's mansion?

2 A Not that I recall offhand.

3 Q Did Mr. Clinton ever discuss with you the
4 nature and extent of his relationship to Mr.
5 McDougal?

6 A No, not that I recall.

7 Q At any time, even after 1987?

8 A Not that I recall.

9 Q Were there any other instances in terms of
10 discussing legislation that you can recall where
11 private litigation was mentioned?

12 A Would you repeat the question?

13 MR. BRENNER: The reporter will read it
14 back.

15 (The reporter read the record as
16 requested.)

17 THE WITNESS: Probably. But I can't give
18 you a specific example at this point.

19 We would have somewhere between 1500 and
20 2000 pieces of legislation introduced in the House of
21 Representatives, and probably a thousand pieces
22 introduced in the Senate in each regular session of

1 the General Assembly. Many of those had fairly
2 limited focus, and I'm sure over the years that there
3 were several of them that had to do with trying to
4 address private disputes.

5 BY MR. BRENNER:

6 Q This is the only one that you can remember
7 specifically. I'm curious if you have any
8 recollection of any other situations where one party
9 would come to you recommending a certain action on
10 legislation, and mentioned specifically by name
11 parties that they believe have a connection in some
12 way to the governor.

13 A I don't recall.

14 Q But you do know -- do you remember when he
15 mentioned McDougal's name that that prompted in you
16 knowledge that McDougal and Clinton were involved in
17 a business relationship?

18 A I don't know that it prompted a
19 recollection of that.

20 Q But at that time, you did know that they
21 had a business relationship?

22 A I knew at some point along in this period

1 of time, perhaps before this, perhaps shortly
2 thereafter, that there was some type of business
3 relationship.

4 Q Did Mr. Tucker in any way stress the fact
5 that Mr. McDougal would be involved in the litigation
6 as an issue?

7 A Not that I recall, beyond laying out the
8 background as set forth in the memo.

9 MR. COLE: Did Mr. Tucker mention the
10 Whitewater investment, or the fact that Mr. McDougal
11 and Governor Clinton had an interest in Whitewater?

12 THE WITNESS: Not that I recall.

13 BY MR. BRENNER:

14 Q I assume from the first paragraph of the
15 memo that you have in front of you, there was an
16 issue. "The S&L subsequently learned that it could
17 not legally own and operate a utility company, and
18 therefore the company was sold to R.D. Randolph for
19 the purposes of acquiring this utility.

20 The problem arises from the fact that the
21 utility is legally subject to regulation, but the
22 Public Service Commission is prohibited from ..." --

1 can you read that?

2 A I think it probably says "mortgaging
3 utility property without permission of the
4 Commission."

5 Q Can you continue?

6 A "Madison Guaranty is the mortgage holder.
7 Therefore, in (blank) opinion the mortgage is
8 invalid, as the utility had not (something blanked
9 out) regulation and obtained approval of the
10 mortgage."

11 Q So this would put Madison Guaranty in an
12 awkward position in terms of their mortgage on the
13 Castle Sewer and Water property?

14 MR. PORTNOY: Are you asking the witness
15 for his opinion, or are you asking him whether
16 anybody told him that?

17 MR. BRENNER: I'm asking him for his
18 opinion. He is currently the head of the Public
19 Service Commission and he is very adequately versed
20 in the rules and regulations of the Commission.

21 MR. PORTNOY: To opine whether a bank
22 would be in an "awkward position?" I'll just note

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1 for the record that the question is less than clear.

2 MR. BRENNER: I have no problem rephrasing
3 the question.

4 BY MR. BRENNER:

5 Q The failure of McDougal and Madison
6 Guaranty to comply with the Public Service
7 Commission's requirements as they existed prior to
8 the legislation -- was that something in your
9 experience in the governor's office, or now in your
10 experience as head of the Public Service Commission,
11 something that is a common occurrence?

12 A That what is a common occurrence?

13 Q The failure to comply with the Public
14 Service Commission rules and regulations.

15 A Not that I am aware of.

16 Q In light of the fact that more than two-
17 thirds of this memo was dedicated to discussions of
18 Madison Guaranty Savings and Loan, with potential
19 litigation and their failure of compliance, I'm
20 hoping that may jog your memory as to the relevance
21 of that in terms of the relationship between Mr.
22 McDougal and Mr. Clinton.

1 A The memorandum simply lays out the
2 information that Mr. Tucker provided to me, and that
3 I transmitted to the governor.

4 Q Do you recall any information that Mr.
5 Tucker mentioned to you that was not memorialized in
6 this writing?

7 A Not that I recall at this time.

8 Q Have you ever come to know of potential
9 problems with a 1985 fundraiser sponsored by Mr.
10 McDougal for Mr. Clinton?

11 MR. COLE: When you say "potential
12 problems," perhaps the witness understands it, but I
13 don't know what that means.

14 BY MR. BRENNER:

15 Q Have you ever come to know about
16 allegations that not all of the gifts given to the
17 Governor Clinton fundraiser were made by the people
18 who are credited with giving those gifts?

19 A I have read newspaper reports that recount
20 those allegations.

21 Q Do you recall when you read those
22 newspaper reports?

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1 A No.

2 Q Even in approximate terms?

3 A No.

4 Q I'd like to show you what is a list of
5 contributions at the 1985 Madison fundraiser for
6 Governor Clinton, and I ask you to take a look at
7 that list.

8 (Document handed to witness.)

9 BY MR. BRENNER:

10 Q Have you ever seen this list?

11 A I don't think so.

12 Q I'd like to direct your attention
13 approximately halfway down the list. There's a
14 notation, "County Cable TV." Underneath, there's a
15 parentheses, (Jim Guy Tucker). And next to that,
16 there's an amount, which is \$1,000 on 4/4/85.

17 Do you see that?

18 A Yes.

19 Q And four names down from there, there's a
20 notation, "Robert" or "R.R. Randolph." Next to that
21 is \$1,000, 4/4/85.

22 Do you see that?

1 A Yes.

2 Q Did anyone direct your attention to these
3 contributions around the time of the veto in 1987?

4 A No.

5 Q Do you know who Robert or R.R. Randolph
6 is?

7 A No.

8 Q Have you ever seen any documents that were
9 referenced as fundraiser documents from the 1985
10 fundraiser?

11 A From that fundraiser, that particular --

12 Q Yes. It's a fundraiser that occurred in
13 April -- apparently April 4 or April 5 -- of 1985.

14 A I certainly don't have any recollection of
15 ever having seen any documents that pertain to that
16 particular fundraiser.

17 Q In the governor's office, do you recall
18 seeing any fundraiser documents? Was it a common
19 course for fundraiser documents to be shown to people
20 in the governor's office?

21 A No, it was not.

22 Q Did Governor Clinton show you any

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1 fundraiser documents?

2 A Not that I recall.

3 Q Do you recall -- when did you first know
4 about a fundraiser held by Mr. McDougal in 1985 for
5 Mr. Clinton?

6 A I don't know.

7 Q Do you have even a general knowledge?

8 A No.

9 Q Are you aware that there was a fundraiser
10 held in 1985 by Mr. McDougal at Madison Guaranty for
11 Mr. Clinton?

12 A Yes.

13 Q In the course of your relationship with
14 the governor, would his daily schedule be something
15 that you would be privy to?

16 A His public schedule probably was something
17 I saw fairly routinely.

18 Q So if there was a notation in his schedule
19 that he was going to be attending a fundraiser in the
20 evening at Madison Guaranty, that would be something
21 that you very well could have seen?

22 A Well, I wouldn't necessarily assume it was

1 on his public schedule. So I don't know whether I
2 would have seen it or not.

3 Q But I'm asking you, it was something you
4 may well have seen. I'm not asking you necessarily
5 what you did see.

6 MR. PORTNOY: We're now into like a third-
7 level hypothetical. The witness has testified that
8 he did routinely see the governor's public schedule,
9 but that he has no specific recollection of seeing
10 any notation with respect to this fundraiser. It
11 seems to cover the waterfront.

12 MR. NAPPI: Could we go off the record for
13 one minute?

14 (Discussion off the record.)

15 (Recess.)

16 MR. BRENNER: Can we go back on the
17 record?

18 BY MR. BRENNER:

19 Q Getting back to the 1985 fundraiser, did
20 you know at the time of the veto of the legislation
21 for Jim Guy Tucker and R.D. Randolph that there had
22 been a fundraiser in 1985 for Bill Clinton at which

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1 it appears that Mr. Tucker and Mr. Randolph made
2 contributions?

3 A I don't know whether I had known that that
4 fundraiser occurred or not at the time of the veto.
5 I don't think I was aware of it or remembered it if I
6 had known that it had occurred, and I don't know that
7 I did know that it occurred.

8 Q Subsequent to the veto, and prior to the
9 passage of the act in 1987, Act 37, was it brought to
10 your attention by any party that there had been a
11 fundraiser in 1985?

12 A Not that I recall.

13 Q Did you have a contemporaneous
14 recollection not brought to your attention by anybody
15 else?

16 A No, not that I recall.

17 Q I'm curious if you could rate the success
18 of Act 37 in terms of do you think Act 37 was
19 beneficial to the people of the state of Arkansas.

20 A I don't have any basis for rating it.

21 Q Did you ever attend any fundraisers that
22 were sponsored for Governor Clinton during your time

1 in the governor's office?

2 A Sure.

3 Q Without getting into the specifics of
4 various fundraisers, do you recall if you went on a
5 regular basis to fundraisers?

6 A I didn't go -- I'm not sure what a regular
7 basis is. During each of the campaigns, there would
8 be at least one large fundraising event, and I would
9 normally buy a ticket and attend.

10 Q Would you attend smaller fundraising
11 events?

12 A I don't recall attending many small
13 fundraising events. I'm sure I probably have at one
14 point or another, probably as staff going along to
15 take notes or something like that.

16 Q Do you recall attending any small
17 fundraising events in 1985?

18 A I don't recall.

19 Q Did you know at the time Mr. Tucker
20 mentioned to you Mr. McDougal's bank may be involved
21 in the legislation -- did you know at that time that
22 Mr. McDougal was a fundraiser for Mr. Clinton?

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1 A I knew McDougal had raised some money for
2 the governor.

3 Q Could you explain how you came to know
4 that?

5 A I think I was just generally aware of it.
6 McDougal had raised some money for the governor on
7 occasion during campaigns. I don't think I had any
8 impression of the amount, or how often he had done
9 fundraising activities on behalf of the campaign, but
10 I knew that he had to some extent.

11 Q Did you attend the 1985 fundraiser that
12 I've been referring to here today?

13 A I don't think I did. I certainly don't
14 have any recollection of it.

15 Q Would you have any records in your
16 possession that would indicate your activities during
17 that time period?

18 A No, I would not.

19 Q How did you come to know about Mr.
20 McDougal's involvement in the fundraising activities
21 of Governor Clinton?

22 A I'm not sure. Probably from conversation

1 with Betsy Wright, I imagine.

2 Q Was Betsy Wright chiefly involved in doing
3 campaign work for the governor, as well as her work
4 in her capacity as chief of staff?

5 A Yes.

6 Q Was she the only person that you know of
7 that was involved? Was she the main person that you
8 know of involved in the political campaigns of
9 Governor Clinton?

10 A During most of Governor Clinton's tenure
11 as governor, Betsy was the campaign manager for the
12 campaigns.

13 Q Did you ever talk to Betsy Wright about
14 Jim McDougal?

15 A In what way?

16 Q In terms of his fundraising activities.

17 A I don't recall any detailed discussions
18 with Betsy about what Jim McDougal may or may not
19 have done in terms of fundraising. I think, as I had
20 said earlier, that I was probably aware that McDougal
21 had done some fundraising, based on just a general
22 conversation or comment from her.

1 Q Do you know Bruce Lindsey?

2 A Yes. I know Bruce Lindsey.

3 Q When did you meet Bruce Lindsey?

4 A I don't recall specifically. Probably
5 when he was working for Senator, then-Governor David
6 Pryor a number of years ago.

7 Q Have you been in contact with Mr. Lindsey
8 on a professional basis since --

9 A Recently, or in the last 20 years?

10 Q Since you started working for then-
11 attorney general Jim Guy Tucker.

12 A On occasion.

13 Q Could you please describe those occasions?

14 A I don't recall offhand all of them. There
15 were times when I was working in Governor Clinton's
16 office that the Wright firm, where Mr. Lindsey was a
17 partner, would have clients who had interests that
18 involved legislation or involved the activity of some
19 state agency that I would have conversations with Mr.
20 Lindsey about those.

21 Q Have you had discussions with Mr. Lindsey
22 since he has come to work in Washington for President

1 Clinton?

2 A Yes.

3 Q Could you describe the nature and extent
4 of those contacts?

5 A They have been for the most part just
6 social conversations on the few occasions when I've
7 run into him here in Washington, or when he's been
8 back in Little Rock.

9 Q Have you had any non-social conversations
10 with Mr. Lindsey since he came to Washington?

11 A I may have talked with him on a federal
12 appointment issue or two.

13 Q Did you have any conversations with Mr.
14 Lindsey about fundraising activities or campaign
15 activities of the 1990 gubernatorial campaign?

16 A Not that I recall.

17 Q What was your understanding of Mr.
18 Lindsey's role in then-Governor Clinton's 1990
19 gubernatorial campaign?

20 A I don't know specifically what his role
21 was. I know he was involved in the campaign, but I
22 don't know specifically what his role was.

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1 Q Would you consider him one of the major
2 persons involved in the President's gubernatorial
3 campaign?

4 A That was my impression.

5 Q Did Mr. Clinton ever have any discussions
6 with you about Mr. Lindsey?

7 MR. COLE: About Mr. Lindsey generally, or
8 about his role in the campaign?

9 MR. BRENNER: About Mr. Lindsey generally,
10 for starters.

11 THE WITNESS: I'm sure, possibly again
12 going back to the fact that Mr. Lindsey periodically
13 would represent clients who had dealings with state
14 government, that we would have talked about him in
15 his capacity as counsel for clients involved with
16 state government or legislative actions. I'm sure we
17 did various times.

18 BY MR. BRENNER:

19 Q Did Mr. Clinton have any discussions with
20 you about Mr. Lindsey's role in the 1990 Clinton
21 gubernatorial campaign?

22 A I don't think so.

1 Q Did Betsy Wright?

2 A Not that I recall.

3 Q Did Hillary Clinton?

4 A I don't think so.

5 Let me go back. With regard to Betsy, I
6 may have had some general conversation with Betsy.
7 She did not, as I recall, run the 1990 campaign.
8 There were some hard feelings about that, so I had a
9 conversation or two with her where she generally was
10 probably venting some frustration about who was
11 running it and who wasn't, and so forth. So, to that
12 extent.

13 But in terms of specifics, no.

14 Q In terms of her role, her role changed
15 from earlier campaigns to the 1990 campaign?

16 A It's my recollection that she was not in
17 charge of the 1990 campaign, that Dora Cabe was in
18 charge of the 1990 campaign.

19 Q Please spell that for the record.

20 A C-a-b-e.

21 Q In these discussions, did Mr. Lindsey's
22 name ever come up?

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1 A I think it may have.

2 Q Do you recall what was said about Ms. Cabe
3 or Mr. Lindsey?

4 A Not specifically.

5 Q Generally.

6 A Generally that Betsy was dissatisfied that
7 she didn't have the role that she'd had in the past,
8 and other people did. But beyond that, I don't
9 recall the specifics.

10 Q What was your understanding of why her
11 role changed?

12 A I don't know.

13 Q Did she ever discuss with you why her role
14 changed?

15 A I don't recall her discussing specifically
16 why.

17 Q Do you recall her discussing generally?

18 A Yes.

19 Q Do you recall generally what was said?

20 A No.

21 Q Do you recall having any discussions with
22 then-Governor Clinton about the role of Mr. Lindsey

1 and the role of Betsy Wright?

2 A No.

3 Q Do you recall having any discussions with
4 Mrs. Clinton about the changing roles of Betsy Wright
5 and Bruce Lindsey?

6 A No.

7 Q Do you recall having discussions with
8 anybody that I have not previously mentioned about
9 Betsy Wright's changed role in the 1990 gubernatorial
10 campaign?

11 A I'm sure I did.

12 Q Do you recall who that may have been with?

13 A No.

14 Q Earlier I asked you if you knew who R. R.
15 Randolph was. I'd like to turn your attention to
16 documents labeled DKSJ 024917 through DKSJ 024922.

17 (Documents handed to witness.)

18 BY MR. BRENNER:

19 Q If you could explain to me what those are,
20 and have you seen those documents?

21 (Pause.)

22 A They are two documents. They are both

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1 Arkansas Public Service Commission documents. The
2 first one is a motion to compel filing a report on
3 gross revenues. It's docket 95-279-U, initiated by
4 the staff of the Commission, which asserts that
5 Castle Water and Sewer has failed to file a required
6 report with the Commission.

7 The second document is a designation order
8 that assigns that docket to Administrative Law Judge
9 Burl Ruttenberry.

10 Q Do you know during 1985, specifically
11 during the period mentioned -- and the date stamps at
12 the top are April and May of 1995 -- who was in
13 charge of Castle Water and Sewer Company?

14 A I don't know specifically who was in
15 charge of Castle Water and Sewer.

16 Q If I could take those documents back,
17 please.

18 (Documents handed to counsel.)

19 BY MR. BRENNER:

20 Q Has it ever come to your attention that
21 the rates at Castle Grande for utilities are in the
22 neighborhood of three times more expensive than if

1 they lived in Little Rock?

2 A I think I have seen a newspaper report
3 that reported that.

4 Q Is that because of the deregulation?

5 A I don't know why that is. But it is my
6 impression that it has more to do with the size of
7 the company, the infrastructure, and some of the
8 problems that they've had.

9 Q Would the Public Service Commission, if
10 they had control over the regulatory authority for
11 Castle Sewer and Water, be able to control the rates
12 that were being charged by Castle Sewer and Water?

13 A Control the rates? Yes. Lower the rates?
14 Not necessarily.

15 Q After 1987, what was your next contact, if
16 any, with anyone associated with Castle Sewer and
17 Water or any of its subsidiaries?

18 A I don't know who all is associated with
19 Castle Water and Sewer.

20 Q Jim Guy Tucker, Jim McDougal, R.D.
21 Randolph.

22 A I don't recall having any contact with

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1 R.D. Randolph. I'm relatively positive of that. I
2 don't think I've seen McDougal since then.

3 Q Have you spoken to McDougal since then?

4 A I don't think so. If I did, I may have
5 run into him on the street or something like that.
6 But I don't recall that I have. I've not had any
7 substantive contact or dealings with him. And I have
8 seen Governor Tucker since that time on numerous
9 occasions.

10 Q Could you describe your personal
11 relationship, if any, with Governor Tucker?

12 A I don't think I have any personal
13 relationship with him. I have a professional
14 relationship with him.

15 Q I just briefly want to discuss a couple of
16 things about the Public Service Commission.

17 Do you know Mr. Gil Glover?

18 A Yes. I know Mr. Glover.

19 Q Who is he?

20 A He is chief counsel of the general staff
21 of the Public Service Commission.

22 Q Would he have any involvement with the

1 order of dismissal, or any of the other documents
2 related to Castle Water and Sewer Company?

3 A The order of dismissal?

4 Q Any of the documents that I just showed
5 you related to Castle Sewer and Water in 1995.

6 A Yes.

7 Q Was he the supervising attorney for the
8 Public Service Commission staff?

9 A For the attorneys on the general staff, he
10 is the general counsel. So he would be the
11 supervisor to Beverly Hood Jones, who had signed the
12 measure.

13 Q When did you meet Mr. Glover?

14 A I don't recall when I first met him. I've
15 known him for a number of years.

16 Q You've known him since you were in the
17 governor's office?

18 A At least that long; ten years or so, maybe
19 longer.

20 Q How is Mr. Glover regarded within the
21 Public Service Commission?

22 A I personally regard him as a very valuable

1 employee, very competent. He does a good job in his
2 capacity as general counsel for the staff.

3 Q Have you ever met his wife, Paula Casey?

4 A Yes.

5 Q When did you meet Ms. Casey?

6 A Probably about the same time I met Gil. I
7 don't recall specifically. I've known her for a
8 number of years.

9 Q Has Ms. Casey or Mr. Glover ever discussed
10 with you potential legal problems for the President
11 or the First Lady?

12 A Ms. Casey and I have not had any such
13 discussions. Gil and I at various times over a cup
14 of coffee have talked about developments in the so-
15 called Whitewater matters.

16 Q Could you explain to me the discussions
17 you've had?

18 A Just general discussions about what was
19 going on, what was being reported in the press.

20 Q Did he ever discuss his wife's recusal
21 from the Madison case with you?

22 A No.

1 Q Did he ever discuss his wife's recusal
2 from the David Hale case with you?

3 A No.

4 Q Did he ever discuss the underlying cases
5 prior to the recusals?

6 A No.

7 (Pause.)

8 MR. BRENNER: Can we go off the record,
9 please?

10 (Discussion off the record.)

11 (Whereupon, at 12:55 p.m., the hearing in
12 the above-entitled matter was recessed, to reconvene
13 at 1:45 p.m., this same day.)
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1 AFTERNOON SESSION

2 (1:45 p.m.)

3 Whereupon,

4 SAM I. BRATTON, JR.

5 resumed the stand and, having been previously duly
6 sworn, was further examined and testified as follows:

7 EXAMINATION (Continued)

8 BY MR. BRENNER:

9 Q I'm going to discuss with you a series of
10 phone calls, and I want to know whether the governor
11 or anyone else talked to you about the following
12 phone contacts. It's going to be document numbers
13 DKSJ 12969, 12961, 13167, 13168, 13176, 13183, 13180,
14 13161.

15 There was a call dated October 7, 1986
16 from R.D. Randolph.

17 (Document handed to witness.)

18 BY MR. BRENNER:

19 Q Can you read the message at the bottom?
20 It's the last one on the page.

21 Could you read that for the record?

22 A "Clara said he is now or has been

1 associated with Jim."

2 Q Is this Jim Guy Tucker or Jim McDougal?

3 A I have no idea.

4 Q Did anybody ever speak to you about this
5 phone call?

6 A Not that I have any recollection of.

7 Q Do you have any idea who the "Jim"
8 referenced in that phone message is?

9 A None whatsoever.

10 Q The next phone call I'd like to turn your
11 attention to is a phone call by R.D. Randolph dated
12 January 23, 1987.

13 (Document handed to witness.)

14 BY MR. BRENNER:

15 Q If you could read the message.

16 A "He's your neighbor. Said you would know
17 why he's calling."

18 Q Did the governor ever talk to you about
19 this phone message?

20 A I have no recollection of it.

21 Q Did anyone else ever talk to you about
22 this phone message?

1 A Not that I have any recollection of.

2 Q Was this around the time the legislation
3 allowing Castle Sewer and Water to not fall under the
4 purview of the PSC was pending before the state
5 legislature?

6 A It appears to be the same general time
7 frame.

8 Q The next phone call I'd like to turn your
9 attention to is from December 13, 1988, also from
10 R.D. Randolph. There's a handwritten note.

11 (Document handed to witness.)

12 BY MR. BRENNER:

13 Q Do you recognize the handwriting?

14 A I think it's probably Betsy Wright's
15 handwriting.

16 Q What does it say?

17 A It says "Someone else called."

18 Q It says "Someone else called?"

19 A The handwritten?

20 Q Yes, sir.

21 Did Ms. Wright or anyone else discuss this
22 phone message with you or ask you to return the phone

1 call to R.D. Randolph?

2 A Not that I recall.

3 Q The next phone message I'd like to turn
4 your attention to is December 30, 1988, a call from
5 R.D. Randolph.

6 (Document handed to witness.)

7 BY MR. BRENNER:

8 Q If you could read the message, please.

9 A "Betsy called him and he told her it was
10 personal crap that he wanted to talk to you about,
11 and he would wait your call."

12 Q That is referring to Betsy Wright?

13 A It seems to be.

14 Q Did Ms. Wright or anybody else ever speak
15 to you about this phone call?

16 A Not that I recall.

17 Q There's a call dated January 20, 1989.
18 Were you still in the governor's office at that time?

19 A Yes.

20 Q It's a call from R.D. Randolph. Could you
21 please read the message?

22 (Document handed to witness.)

1 THE WITNESS: "Please call tonight or this
2 weekend. Wants to complain about Senator Bell's bill
3 on educational directors and a whole lot of other
4 things."

5 BY MR. BRENNER:

6 Q Did anybody ever talk to you about this
7 call?

8 A Not that I recall.

9 Q Do you have any idea what R.D. Randolph is
10 referring to when he talks about the educational --

11 A Senator Clarence Bell, who was chairman of
12 the Senate education commission, periodically
13 introduced legislation -- and I think he introduced
14 it in the '89 session -- that would have transferred
15 the authority to hire and fire the director of the
16 Department of Education and the director of the
17 Department of Higher Education from the governor to
18 the respective boards of those departments. I assume
19 that is probably the reference.

20 Q Was there any other issue that that
21 message could refer to?

22 A Not that I am aware of.

1 Q At what point in time -- just because I
2 have a series of phone messages here -- did you leave
3 the governor's office and go to the Public Service
4 Commission?

5 A In early April of '89. I don't remember
6 the precise date.

7 Q At any time before you left, did the
8 governor ask you about a potential job for R.D.
9 Randolph within the state government?

10 A Not that I recall.

11 Q Do you remember anything related to the
12 Arkansas Development Finance Authority and R.D.
13 Randolph?

14 A I have some vague recollection that I was
15 aware that Randolph had wanted some sort of job or
16 appointment. I don't think I ever talked to the
17 governor about it. I don't know where I got that
18 impression, but I do have some vague recollection
19 that he at one point was interested in some
20 employment.

21 Q You mentioned earlier Bob Nash.
22 What was Bob Nash's role in the governor's

1 office?

2 A He was the staff person who had
3 responsibility for the economic development
4 activities, broadly defined. He would have been the
5 liaison with the Arkansas Industrial Development
6 Commission and some other programs, economic
7 development programs.

8 Q Were you and Mr. Nash sort of coequals in
9 terms of being senior professionals?

10 A Yes.

11 Q Were you and Mr. Nash friends?

12 A Yes.

13 Q Did you speak often?

14 A He had the office next to mine for a
15 number of years, so we'd see each other every day.

16 Q So I have it clear, could you in general
17 terms explain to me the layout of the office, in
18 terms of whose office was next to whose office?

19 A The governor's office was in about four or
20 five separate locations.

21 The governor's office was in Room 250,
22 which was on the north end of the Capitol on the east

1 side of the building. The governor's office was
2 there, his personal secretary, another secretary, the
3 scheduling people, the press office, Betsy Wright's
4 office, Carol Rasco's office.

5 Q Who's Carol Rasco, for the record?

6 A She was the senior staff person
7 responsible for human service and health issues at
8 that point.

9 There was a conference room connecting 250
10 and Room 238, which was on the same end of the
11 building. And on the west side, my office was there,
12 Bob Nash's office was there, and there were three
13 other offices that were occupied by various people
14 over that period of time when I was with them.

15 Q Were any of those persons Caroline Huber?

16 A Caroline Huber, to my recollection, never
17 had an office in the governor's office.

18 Q A moment ago, you spoke of, at various
19 times there were other people in the other offices.

20 At what period of time is the description
21 of the offices you gave me relevant?

22 A '83 -- roughly, say, January 1, '84, when

1 I was back on staff full time, through the time I
2 left in the spring of '89.

3 Q Do you know Ms. Huber?

4 A I know who she is, yes.

5 Q Who is she?

6 A She at one point worked at the Rose Law
7 Firm, and at a later point was the administrator of
8 the governor's mansion.

9 Q When did you first meet Ms. Huber?

10 A I don't recall.

11 Q Do you have a general recollection of when
12 she may have come on staff?

13 A No, not really.

14 Q Did she come on staff after you?

15 A I don't recall who was the mansion
16 administrator in '84.

17 Q Did you have frequent contact with Ms.
18 Huber?

19 A I would see her when I was at meetings at
20 the mansion.

21 Q Did she know you by name?

22 A Sure.

- 1 Q Did you know her by name?
2 A Yes.
3 Q When was the last time you spoke with Ms.
4 Huber?
5 A I don't recall.
6 Q Have you spoken to her since she's been in
7 Washington?
8 A I think I probably saw her at a Christmas
9 party at the White House a couple of years ago.
10 Q What, if you recall, were the names of
11 Governor Clinton's secretaries during his tenure as
12 governor?
13 A Linda Dixon was his secretary most of the
14 time, or perhaps all the time in the '84 through '89
15 period that I was on staff. I don't recall the name
16 of the woman who was his secretary during his first
17 term.
18 Q This is only the personal secretaries?
19 A Yes.
20 Q In other words, the name of the woman who
21 was "NH," the initials NH --
22 A Nancy Hernreich.
-

- 1 Q What was her position?
2 A She scheduled the governor's time.
3 Q Were there any other schedulers that you
4 recall?
5 A She had an assistant during most of that
6 time. There were two or three different people who
7 were in that position. I don't recall offhand who
8 they were.
9 Q Do you recall when you first met Jim
10 McDougal?
11 A Probably some time in late '78 or early
12 '79.
13 Q Do you recall attending any meetings with
14 Mr. McDougal?
15 A I would have attended staff meetings in
16 that '79 period when he was on the governor's staff.
17 Q After he left the governor's staff, do you
18 recall attending any meetings with Mr. McDougal?
19 A I don't recall specifically. It's
20 certainly possible that I might have on one or two
21 occasions.
22 Q Do you recall ever speaking with Mr.

1 McDougal on the phone?

2 A Not specifically. Entirely possible and
3 probable that I did at some point during that four or
4 five years.

5 Q Do you have any recollection of the one or
6 two meetings you may have had with Mr. McDougal?

7 A No. And I'm not sure I did. I just said
8 it's possible.

9 Q Do you have any recollection of any of the
10 phone calls you may have had with Mr. McDougal?

11 A No. I'm not sure I did. It's certainly
12 possible that I had a phone call or two with him.

13 Q Do you recall receiving any documents that
14 were sent to you or to the governor's office
15 generally, or to the governor, by Mr. McDougal?

16 A I don't have any specific recollection of
17 that.

18 Q Do you recall having any discussions with
19 the President in which the name Jim McDougal came up?

20 A I don't have any specific recollection. I
21 know there was an occasion where one of McDougal's
22 real estate development projects was involved in some

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1 controversy with the health department regarding
2 septic tank systems. I was not directly involved in
3 that issue. But I was aware that it was going on.
4 It may have been in some conversations where that was
5 discussed.

6 Q What conversations were you involved in
7 that you recall?

8 A I don't recall specifically. But we would
9 periodically have senior staff sessions with the
10 governor where there would be two or three people
11 present who would bring up whatever issues the
12 particular staff people thought the governor needed
13 to be aware of. And you would hear issues that you
14 weren't directly involved with being discussed,
15 probably in some sort of setting, anything.

16 Q Was that Maple Creek Farms? Do you
17 remember?

18 A I don't remember which particular
19 development it was.

20 Q Did the First Lady ever attend any of
21 these senior staff meetings that you just referred
22 to?

1 A Occasionally there would be a session at
2 the mansion she might sit in on.

3 Q Do you recall any of the meetings she did
4 sit in on?

5 A No, not particularly.

6 Q Do you recall having any discussions with
7 Betsy Wright or anyone else where Mr. McDougal's name
8 came up in relation to Whitewater Development
9 Corporation?

10 A I had one or more conversations one year
11 with Betsy when she was preparing the governor's
12 financial disclosure statement, which all state
13 officials above a certain level are required to
14 prepare. And there was some question about how that
15 should be reported on the financial disclosure form,
16 and she had talked with me about it.

17 Q Did you have any discussions with anyone
18 else where Mr. McDougal's name came up, either
19 related to Whitewater or related to any of his real
20 estate investments or business investments?

21 A I'm sure I probably had some
22 conversations.

1 Q Do you recall the substance of any of
2 those conversations?

3 A What business activities are you
4 including?

5 Q Well, I'll break it down.

6 Do you recall any discussions with anyone
7 about Maple Creek Farms and the septic system of
8 Maple Creek Farms?

9 A Not other than I have already indicated.

10 Q Do you recall any discussions of Mr.
11 McDougal's investment in Madison Guaranty Bank?

12 A I had discussions with some individuals
13 regarding his ownership of Madison.

14 Q Who were those individuals?

15 A With the governor, with Betsy Wright, with
16 Beverly Bassett-Schaffer, among others.

17 Q With regard to your discussions with the
18 governor, what was the nature and extent of those
19 conversations?

20 A I was the liaison with the securities
21 department, and from time to time during the period
22 leading up to McDougal's removal as chairman of the

1 board, I guess by this time, I would receive some
2 briefings from Beverly Bassett-Schaffer about the
3 status of Madison, and from time to time I would pass
4 those on to the governor.

5 Q At any of those meetings, did the governor
6 relate to you that he was in a business transaction
7 with Jim McDougal?

8 A Not that I recall.

9 Q Did he ever relate to you his desire to
10 see to it that Madison was treated fairly?

11 A Not that I recall. I don't think there
12 was ever any reason to think that they weren't being
13 treated fairly.

14 Q Did he ever relate to you that his wife
15 represented Madison Guaranty in some cases?

16 A Not that I recall.

17 Q Did he ever relate to you that the Rose
18 Law Firm represented Madison Guaranty in certain
19 issues?

20 A I was aware that the Rose Law Firm did
21 represent Madison. I was not aware as to what the
22 particular matters that representation was.

1 Q When did you become aware of that?

2 A I'm not sure.

3 (Discussion off the record.)

4 (Recess.)

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1 BY MR. BRENNER:

2 Q I wanted to go back to your agency liaison
3 relationship for the governor's office. Could you
4 tell me which agencies you were a liaison to and the
5 time frame for those liaison relationships?

6 A Well, I basically had the same group of
7 agencies from January of '84 until I left the
8 governor's office, included the department of finance
9 and administration, computer services department,
10 Public Service Commission, the bank department,
11 securities department, and the insurance department.

12 Q And did you do this as well during 1978 to
13 1980?

14 A No. The only agencies that I had any
15 responsibility for during the '78 to '79 time period
16 were the education related agencies.

17 Q As the agency liaison or in your role in
18 the governor's office, were you responsible between
19 '84 and '89 for shepherding appointments?

20 A I didn't have a great deal to do with
21 appointments. If you're talking about appointments
22 to state boards and commissions, I didn't have a

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1 great deal to do with that. I would have had some to
2 do with it.

3 Q What would you have to do with it?

4 A It would vary. Sometimes I would have more
5 involvement than others in appointments involving
6 some of those agencies.

7 Q Could you explain the scale?

8 A One of the agencies that I had was an
9 additional one was workers' comp commission, and we
10 appointed a new chairman somewhere along in '87, '88,
11 somewhere in that time frame. I was fairly
12 significantly involved in those discussions, and
13 there were other appointments that I did that
14 involved some agencies that I was involved with that
15 I didn't have any particular input into.

16 Q What were the factors or variables that
17 affected your involvement in appointments?

18 A I don't know that there were specifics.

19 Q Who would ask you to get involved in doing
20 a given appointment?

21 A Normally it would be Betsey Wright.

22 Q Did the governor ever ask you to get

1 involved in any appointments?

2 A By that do you mean the governor personally
3 rather than a request from him through Betsey?

4 Q I mean the governor personally.

5 A I don't recall.

6 Q And what about the governor, did Betsey
7 Wright hold out to you at any point that certain
8 appointments she was requesting that you deal with
9 were requests that came from the governor to her?

10 A Well, I normally assumed that whatever
11 requests or directions that I got from Betsey came
12 from the governor.

13 Q Do you recall which appointments Betsey
14 Wright asked you to get involved in?

15 A As one I mentioned, workers' comp
16 commission, I was fairly deeply involved. Right
17 offhand I don't recall others I was really involved
18 with.

19 Q Was there anyone in the governor's office
20 who was in charge or responsible for handling
21 appointments to the various agencies?

22 A There was a staff person who had the

1 primary responsibility of keeping track of what
2 appointments became vacant, what the requirements for
3 the appointment were, perhaps compiling a list of
4 people who had indicated interest in it, that sort of
5 thing.

6 Q Who was responsible for that?

7 A Various people did it at various different
8 times. I think a woman named Judy Gaddy worked on it
9 for a while. Craig Smith handled appointments for a
10 while.

11 Q Do you recall the chronology of people
12 handling it?

13 A Craig Smith had that responsibility in the
14 last couple of years I was in the governor's office,
15 and Judy Gaddy and I believe Mary Ann Salmon did some
16 work with appointments in previous years. I don't
17 remember whether Mary Ann and Judy were working on
18 them at the same time or whether one had primary
19 responsibility before the other one, but I do think
20 both of them worked on it at various times.

21 Q Can you give me the general time frame of
22 their --

1 A Not other than just within the time frame
2 that we're talking about.

3 Q Was there anyone else, other than the three
4 people you've already mentioned, that you can recall?

5 A Not that I can recall. There were
6 administrative assistant types who kept the computer
7 records and so forth. Those are the three
8 individuals that I remember who had the primary
9 responsibility as the professional staff person for
10 appointments.

11 Q Would any appointments be discussed at the
12 senior staff meetings that you mentioned earlier?

13 A Sometimes they would be; sometimes others
14 wouldn't be.

15 Q Do you recall any discussions of any
16 particular appointments during those senior staff
17 meetings?

18 MR. PORTNOY: Off the record for a second.

19 (Discussion off the record.)

20 (The reporter read the record as requested.)

21 THE WITNESS: Not with any specificity, but
22 I know there were various times appointments were

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1 discussed.

2 BY MR. BRENNER:

3 Q Do you know who was involved in the
4 appointment of Beverly Bassett-Schaffer as head of
5 the Arkansas securities commission?

6 A I was not involved in that process, and I
7 don't know of my own personal knowledge who, other
8 than the governor, was involved.

9 Q When you say "of your own personal
10 knowledge," did anybody hold out to you any
11 information about their involvement or anyone else's
12 involvement?

13 A Not that I recall.

14 Q Do you have any recollection of whether or
15 not Betsey Wright was involved?

16 A I'm sure she was.

17 Q Do you have any recollection of whether or
18 not Hillary Clinton was involved?

19 A I don't have any information about that one
20 way or another.

21 Q Whether or not Jim McDougal was involved?

22 A I don't know.

1 Q Did you know that Beverly Bassett, before
2 becoming securities commissioner, worked for Jim Guy
3 Tucker at Mitchell Williams?

4 A I knew she had worked at the Mitchell firm
5 prior to her appointment, and I have read in the
6 newspapers in recent months that she did some work
7 related to Madison according to news reports.

8 Q Were you involved in the appointment of
9 Herby Branscum to the Arkansas state highway
10 commission?

11 A No.

12 Q Do you know who Herby Branscum is?

13 A Yes.

14 Q How do you know that?

15 A I have just known who he is for a number of
16 years. A specific way was that prior to his
17 appointment to the highway commission, he was on the
18 board of trustees of the University of Central
19 Arkansas, and from time to time I had some
20 discussions with him about higher education matters.
21 I would see him at Democratic Party functions off and
22 on over the years.

1 Q And when do you recall meeting Herby
2 Branscum?

3 A 15 years ago. I don't remember the
4 circumstances. He's somebody I've known for a long
5 time.

6 Q What is your understanding of
7 Mr. Branscum's profession?

8 A That he is a primary owner of a bank in
9 Perry County, has a law degree.

10 Q And do you know who was involved in the
11 appointment of Herby Branscum to the Arkansas state
12 highway commission?

13 A Not directly.

14 Q Indirectly, have you come to know through
15 any other means who may have been involved?

16 A Not in any other way other than I generally
17 know who would be involved in the appointments
18 process.

19 Q And who would that be?

20 A Well, it would have been the governor,
21 Betsey Wright and whoever was in charge of the
22 handling the mechanics of it, at a minimum.

1 Q Who would be in charge of handling the
2 mechanics?

3 A Well, Craig Smith, Judy Gaddy, Mary Ann
4 Salmon, whoever had that position at the particular
5 time of the Branscum appointment, and I don't know
6 who did.

7 Q Have you had any discussions with Herby
8 Branscum since he's become the state highway
9 commissioner about his appointment?

10 A About his appointment, no.

11 Q About his role in the state highway
12 commission?

13 A No.

14 Q Are you familiar with the role that Perry
15 County Bank played during the 1990 Clinton for
16 governor campaign?

17 A From what I read in the newspaper.

18 Q And what's your understanding of that role?

19 A That certain campaign accounts were
20 maintained there. I don't recall specifically.

21 Q Do you have any knowledge other than what
22 you've read in the newspapers about the role of Perry

1 County Bank?

2 A Not that I can recall.

3 Q Do you know who Patsy Thomasson is?

4 A Yes.

5 Q Who is Patsy Thomasson?

6 A She is a former member of the highway
7 commission. She is currently employed in some
8 capacity in the White House.

9 Q When did you first meet Patsy Thomasson?

10 A 15 years ago, probably.

11 Q Do you recall the nature and circumstances
12 of that meeting?

13 A No, not specifically.

14 Q Do you recall if you were introduced to her
15 by another member of the staff in the governor's
16 office or by the governor himself?

17 A I don't know when I met her or the
18 circumstances. I think I had probably -- I probably
19 met her sometime shortly after she was appointed to
20 the highway commission during the time David Pryor
21 was governor, but I don't know who introduced me to
22 her.

1 Q Do you know who was involved in the
2 appointment of Patsy Thomasson to the Arkansas state
3 highway commission?

4 A No.

5 Q Do you know when that occurred?

6 A It's my recollection she was appointed by
7 Governor David Pryor, but beyond that, I don't know.

8 Q Do you know her professional -- do you know
9 anything about her professional relationship with Dan
10 Lassiter?

11 A I know she was employed for a period of
12 time by Dan Lassiter to manage some parts of his
13 business operations.

14 Q Have you ever met Robert Hill?

15 A Not that I recall.

16 Q Do you know that Mr. Hill is Mr. Branscum's
17 partner in Perry County Bank?

18 A I think I have read that.

19 Q Do you recall where you've read that?

20 A I assume in The Democrat Gazette, probably.

21 Q Do you know who was involved in the
22 appointment of Robert Hill to the Arkansas state

1 banking commission?

2 A No, I don't.

3 Q Who took over your role when you left the
4 governor's office and went to the Public Service
5 Commission in terms of your liaison role to the
6 agencies?

7 A I think Phil Wasson probably took some of
8 that responsibility. I don't know --

9 Q Could you spell that name for the record,
10 please?

11 A W-a-s-s-o-n.

12 Q Do you know who else may have taken part of
13 the responsibilities that you had in the governor's
14 office?

15 A No.

16 Q Do you know who Marlon Jackson is?

17 A Yes.

18 Q Who is Marlon Jackson?

19 A Marlon Jackson is a banker and was chairman
20 of the Arkansas -- director of the Arkansas bank
21 department for a period of time in the mid-'80s.

22 Q Have you ever met Mr. Jackson?

1 A Certainly.

2 Q When did you have occasion to meet him?

3 A I don't know whether I had met him before
4 he was appointed director of the Department or not,
5 but I don't recall specifically, but certainly then.

6 Q Do you know who was involved in the
7 appointment of Marlon Jackson to the Arkansas state
8 bank department?

9 A Again, beyond the governor, Betsey Wright
10 and whatever staff person was handling the
11 appointments, I would know that those people were
12 involved. I don't know who else was involved.

13 Q Was Mrs. Clinton ever involved, to your
14 knowledge, in any appointments to any of the agencies
15 that you had a liaison relationship with?

16 A Not that I have any recollection of.

17 Q Any agency at all that you can recall?

18 A I know she had some involvement in the
19 appointment of a director position at the department
20 of education on one occasion.

21 Q Can you recall any involvement you've had
22 with any appointments to the state bank board or any

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1 other banking, savings and loan or securities
2 oversight board committee or commission within the
3 state of Arkansas?

4 A I don't recall being consulted or involved
5 in discussions about the appointment of any member to
6 those boards.

7 Q You've stated that you have a recollection
8 of Hillary Rodham Clinton being involved in one
9 education department appointment. Is that the only
10 instance you can recall of Mrs. Clinton's
11 involvement?

12 A It's the only instance that I have any
13 specific recollection of.

14 Q General recollection of her involvement --

15 A Or general recollection.

16 Q For the record just to clarify, that is the
17 only appointment that you have knowledge that Hillary
18 Clinton was involved in?

19 A Well, actually there were probably two
20 education director appointments, and those are the
21 only ones that I had any either direct or indirect
22 recollection of at this time. I am sure that there

1 were other appointments where she had some view that
2 she expressed to the governor, but that would be
3 speculation on my part as to which of those -- which
4 appointments those might have been.

5 Q When do you recall meeting Beverly
6 Bassett-Schaffer?

7 A I met her sometime during the late '70s.

8 Q And how did you meet her?

9 A She was a law student and lived in an
10 apartment complex where a friend of mine lived.

11 Q Were you aware of any opinion that
12 Mrs. Clinton expressed with regard to any
13 appointments through indirect knowledge besides the
14 two you've previously mentioned?

15 A Not that I have any recollection of at this
16 time.

17 Q Has she ever expressed an opinion to you
18 about any appointment to any of the regulatory or
19 other boards, mentioned about any candidates?

20 A Not other than one of the two education
21 appointments that I recall.

22 Q Have you come to know about any involvement

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1 Mrs. Clinton had or any opinion she may have
2 expressed one way or another with regard to any of
3 the appointments to any of the agencies to any other
4 member of the gubernatorial staff?

5 A Would you run that by me again?

6 MR. PORTNOY: I think I'm going to restate
7 for the record an objection I raised before. At this
8 point I would urge that if you have questions about
9 specific appointments that pertain to the resolution,
10 that you ask about those appointments, but I think
11 we've now done quite a bit of general questioning
12 about appointments to boards.

13 MR. BRENNER: Your objection is noted.

14 MR. PORTNOY: And offices.

15 MR. COLE: Off the record.

16 (Discussion off the record.)

17 MR. BRENNER: Back on the record. Please
18 read back the last question.

19 (The reporter read the record as requested.)

20 THE WITNESS: I am sure during the period
21 of time that I was in the governor's office from time
22 to time I probably heard Betsey Wright and perhaps

1 others, I don't know who, comment on some view that
2 the First Lady may have had about an appointment
3 which was made or wasn't made, but I don't recall any
4 specifics of it. I mean, those were the sorts of
5 discussions that -- it's been almost 10 years ago.
6 Those are the sorts of discussions about what actions
7 we took or didn't take that went on every day, and I
8 simply don't remember the specifics of them 10 years
9 later.

10 BY MR. BRENNER:

11 Q I wanted to get back to Beverly
12 Bassett-Schaffer. When do you recall you first met
13 her?

14 A I think I met her probably in, oh, '77 or
15 '78 or sometime along there, maybe a little earlier.

16 Q How did you come to meet her at that time?

17 A It's my recollection that she lived in the
18 same apartment complex that a friend of mine lived in
19 and that I met her there.

20 Q And subsequent to that contact, when did
21 you first meet her after you started working for the
22 governor again in 1984?

1 A I don't recall.

2 Q Do you recall her appointment to the
3 Arkansas securities commission?

4 A Yes, I recall that she was appointed.

5 Q Do you recall approximately when that was?

6 A I don't know, maybe in -- sometime in '85
7 perhaps, I don't remember. I believe Lee Thalheimer,
8 who had been her predecessor, was still securities
9 commissioner for a period of time after I assumed the
10 responsibility of the liaison operation with that
11 agency.

12 Q Were you involved in any meetings regarding
13 Ms. Schaffer's appointment to the Arkansas securities
14 commission?

15 A Not that I recall.

16 Q Do you recall when you first met Lee
17 Thalheimer?

18 A No, I don't recall when I first met him.

19 Q I'm going to show you a document that's
20 marked DKS N 025893. Could you please explain for the
21 record what that document is.

22 A It is a letter addressed to "The Honorable

1 Bill Clinton, Governor, State of Arkansas, State
2 Capitol, Little Rock, Arkansas 72201. Dear Bill, it
3 has come to my attention Lee Thalheimer, state
4 security commissioner, is seriously considering a
5 change in," I guess it should be "careers," but
6 misspelled. "Should this in fact be true we would
7 very much like to have this opportunity to discuss
8 with you the qualities and characteristics that we
9 believe the individual who replaces him should
10 possess. We would look forward to the opportunity to
11 discuss this with you."

12 Handwritten on the top of the letter is my
13 name, and in the upper right-hand corner is written
14 "securities department" and "log out."

15 Q Who is it signed by?

16 A It's signed by Dan Lassiter.

17 Q Do you recall receiving that letter?

18 A I don't recall receiving it. That's my
19 handwriting in the upper right-hand corner so
20 obviously I did receive it for filing purposes, which
21 is what that reference is to. "Securities" means the
22 direction of my secretary to file it in the agency

1 file on the securities department and to log it out
2 as something that needed to be responded to.

3 Q Do you recall responding to this letter?

4 A No.

5 Q Do you recall --

6 A "Log out" probably means it was not
7 responded to by letter.

8 Q Do you recall any conversations you've had
9 with Dan Lassiter regarding this letter or the
10 contents?

11 A I don't think I've ever had any
12 conversation with Dan Lassiter other than perhaps a
13 hello, how are you.

14 Q Do you recall having any conversations with
15 Governor Clinton about this letter or about who would
16 possess the qualities to take over for Lee
17 Thalheimer?

18 A Not that I recall.

19 Q Did you ever become aware of what these
20 characteristics and qualities mentioned in the
21 letter, what Dan Lassiter was referring to?

22 A I have no idea what he was referring to.

1 Q Do you recall receiving any other letters
2 that were addressed to either Governor Clinton or to
3 you about who would replace Lee Thalheimer as state
4 securities commissioner?

5 A I don't recall. I'm sure we probably did
6 receive other suggestions or nominations.

7 Q Do you recall any discussions with staff or
8 with the governor about who would replace Lee
9 Thalheimer?

10 A I have a general recollection that Betsey
11 told me that Beverly Bassett was going to be
12 appointed or was very likely going to be appointed
13 very shortly before the appointment was announced.

14 Q And what was your response when you heard
15 that?

16 A I don't recall that I had any particular
17 response.

18 Q You were referring, of course, to Betsey
19 Wright when you said "Betsey"?

20 A Yes.

21 Q Do you recall whether or not she was asking
22 your opinion or whether it was a conclusory

1 statement?

2 A It's my recollection that she was telling
3 me that that was the likely choice the governor was
4 going to make.

5 Q And did you approve of that choice?

6 A I don't recall having any particular
7 reaction one way or another.

8 Q Is your recollection based on one statement
9 or one discussion you had with Betsey Wright or did
10 she mention this to you on more than one occasion?

11 A It might have been once, it may have been
12 twice.

13 Q You don't recall?

14 A I don't recall.

15 Q When was your first contact with Beverly
16 Bassett-Schaffer since her name was being considered
17 for the appointment to the securities commission?

18 A I don't imagine I had any -- if your
19 question is did I have any contact with her between
20 the time that I knew she was under consideration or
21 was likely to be appointed and the time she was
22 appointed, to the best of my knowledge, I did not

1 have any conversation with her during that period of
2 time. As I say, I think it was a fairly short period
3 of time, perhaps hours, perhaps a couple of days.

4 Q Did you ever discuss the appointment of
5 Beverly Bassett -- or did you ever discuss the
6 appointment of Beverly Bassett-Schaffer with
7 Mr. Clinton or did Mr. Clinton ever discuss it with
8 you?

9 A Not that I recall.

10 Q Did Mrs. Clinton ever discuss the
11 appointment of Beverly Bassett-Schaffer with you?

12 A Not that I recall.

13 Q Do you know who Archie Schaffer is?

14 A Yes.

15 Q Who is Archie Schaffer?

16 A He is currently employed as governmental
17 relations person for Tyson Foods and various other
18 incarnations. He served on Senator Bumpers's staff
19 when Senator Bumpers was governor, and he was a staff
20 person for a group of Arkansas business people that
21 existed for a couple of years that promoted advances
22 in reforms in education that was colloquially

1 referred to as the good suit club.

2 Q Do you know of any contacts between Mr. or
3 Mrs. Schaffer and the President, in regard to her
4 appointment?

5 A No.

6 Q Do you know of any discussions between Mr.
7 and Mrs. Schaffer and Mrs. Clinton in regard to her
8 appointment?

9 A No.

10 Q How would you characterize the relationship
11 between Beverly Bassett-Schaffer and Archie Schaffer
12 and the Clintons?

13 A I wouldn't try and characterize it.

14 Q I was instructed that I asked some compound
15 questions. Do you know if Archie Schaffer had any
16 contact with Governor Clinton about the appointment
17 of Beverly Bassett-Schaffer?

18 A Not that I am aware of.

19 Q Do you know if Archie Schaffer had any
20 contact with Mrs. Clinton about the appointment?

21 A Not that I'm aware of.

22 Q Do you know of any contact that Archie

1 Schaffer had with Betsey Wright about the appointment
2 of Beverly Bassett-Schaffer?

3 A Not that I'm aware of.

4 Q Do you know of any contact
5 Mrs. Bassett-Schaffer had with Governor Clinton about
6 her appointment?

7 A Well, I assume she had some conversations
8 with him about it.

9 Q Has that knowledge ever been presented to
10 you?

11 A Has anybody ever described those
12 conversations to me? No. But do I assume the
13 governor had a conversation with her before he
14 appointed her to the position, certainly I assume
15 that occurred.

16 Q Do you know of any conversations between
17 Beverly Bassett-Schaffer and Mrs. Clinton concerning
18 her appointment?

19 A No.

20 Q Do you know of any conversations between
21 Beverly Bassett-Schaffer and Betsey Wright concerning
22 her appointment?

1 A I am generally aware that Betsey had one or
2 more conversations with her.

3 Q How did you become generally aware of that?

4 A From Betsey, I would imagine.

5 Q Do you recall what Betsey Wright said to
6 you about that?

7 A No, I don't recall.

8 Q Are you able to characterize the
9 relationship between the Clintons and the Schaffers?

10 A No.

11 Q Do you know if they saw each other
12 socially?

13 A I don't know whether they saw each other
14 socially or not.

15 Q Were you aware that Mrs. Schaffer's role as
16 banking commissioner would put her in an oversight
17 capacity over Madison Guaranty?

18 A She was securities commissioner, not
19 banking commissioner.

20 Q Securities commissioner, I'm sorry.

21 A Yes.

22 Q Were you aware at the time of her

1 appointment that Mrs. Clinton was doing work for
2 Madison Guaranty?

3 A At some point I knew that the Rose firm did
4 some work for Madison. I don't know when I first
5 became aware of that.

6 Q Do you know who at the Rose firm was doing
7 work for Madison?

8 A No.

9 Q Did you become aware of the Rose Law Firm's
10 representation of Madison prior to
11 Ms. Bassett-Schaffer's appointment?

12 A I don't know whether it was prior to or
13 subsequent to. I don't recall.

14 Q Do you have any recollection generally as
15 to the time that you became aware of Madison's
16 representation by Rose Law Firm?

17 A No, I don't.

18 Q Did you know that Mrs. Clinton was
19 representing Madison in negotiations with Beverly
20 Bassett-Schaffer, the newly appointed securities
21 commissioner, to allow changes for Madison Bank in
22 terms of their capitalization?

1 MR. PORTNOY: Might I ask when?
2 Contemporaneously? Did he learn later?

3 MR. BRENNER: Let's get the first answer
4 before we get the second one.

5 THE WITNESS: I don't recall whether I knew
6 that contemporaneously with those discussions or
7 not.

8 BY MR. BRENNER:

9 Q Did there come a time where you became
10 aware of Mrs. Clinton's representation of Madison
11 before Beverly Bassett-Schaffer in her official
12 capacity as liaison to the securities commission?

13 A At this point I don't recall whether I knew
14 that the First Lady had any direct involvement in
15 that issue or not, contemporaneously with it going
16 on.

17 Q Did Mrs. Clinton ever mention to you her
18 work for Madison before Beverly Bassett-Schaffer?

19 A I have absolutely no recollection of her
20 ever talking to me about that.

21 Q Did Betsey Wright ever mention to you the
22 representation by the Rose Law Firm of Madison before

1 Beverly Bassett-Schaffer?

2 A We may have talked about it. I don't have
3 any specific recollection of it, but it's certainly
4 possible.

5 Q Did Governor Clinton ever mention to you
6 his wife's work for Madison before Beverly
7 Bassett-Schaffer and the securities commission?

8 A I certainly have no recollection of the
9 governor ever talking to me about the First Lady's
10 representation of Madison.

11 Q As a lawyer and also as an employee of the
12 governor, when you became aware that Mrs. Clinton was
13 representing Madison before Governor Clinton's newly
14 appointed securities commissioner, did that cause you
15 to have concern in terms of the perception of that?

16 MR. PORTNOY: Just to clarify the record,
17 the witness hasn't testified that he became aware of
18 that at a time that he was an employee of the
19 governor. He has testified that he's not clear when
20 he learned it. But with that clarification --

21 THE WITNESS: As I said, I don't recall
22 when I specifically became aware of it, whether it

1 was while I was still in the governor's office, it
2 may well have been. If it was, I don't recall having
3 any particular concern about it.

4 BY MR. BRENNER:

5 Q Was there anybody else that you can recall
6 mentioning to you Mrs. Clinton's representation or
7 the Rose Law Firm's representation of Madison before
8 Beverly Bassett-Schaffer?

9 A I don't recall anyone else mentioning that
10 to me or discussing that with me.

11 Q Have you ever heard of a proposal, a
12 preferred stock proposal that was requested by
13 Hillary Clinton to Beverly Bassett-Schaffer during
14 April of 1985?

15 A I am aware of it, yes.

16 Q How did you become aware of it?

17 A I don't recall for sure. I think that
18 Beverly Bassett-Schaffer may have made me aware that
19 that proposal had been submitted for their
20 consideration.

21 Q How would she have made you aware?

22 A Probably in a telephone conversation.

1 Q Do you recall any specifics of the
2 telephone conversation with Beverly Bassett-Schaffer
3 around that time?

4 A No, I don't recall any specifics,
5 specifically recall anything. I would talk with her
6 periodically on various matters that would be pending
7 before the securities department, and I do have a
8 general recollection that I was aware that that
9 proposal had been made. My recollection is that I
10 was unaware that the First Lady had any direct
11 involvement in presentation of the proposal.

12 Q Did Ms. Schaffer ever discuss with you any
13 other matters? You said that she discussed various
14 matters with you pending before. Any other matters
15 with regard to Madison Guaranty that you can recall?

16 A Yes.

17 Q What were they?

18 A Well, we, throughout the course of I don't
19 know, a year, year and a half, had various
20 conversations about the status of Madison Guaranty,
21 including conversation shortly before McDougal was
22 removed by federal regulators. I mean, I don't know

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1 how many conversations we had about it, several, over
2 the period of time that Madison's problems became
3 more and more apparent.

4 Q Were there other specific institutions that
5 Ms. Schaffer would speak with you about?

6 A Sure.

7 Q Which institutions, do you recall?

8 A There was an institution in Harrison that
9 failed, Guaranty Savings, that I think may have had a
10 state charter. There was one in Hot Springs that was
11 state chartered that -- maybe Landmark -- that
12 doesn't sound right, but an institution that was a
13 state chartered one that was in similar
14 capitalizations of problems to Madison, perhaps one
15 or two others.

16 Q Regarding the preferred stock issue, do you
17 recall if there was more than one phone call between
18 you and Ms. Schaffer about that?

19 A I don't recall. It was probably something
20 she mentioned to me in a telephone conversation that
21 went on an hour or so. I would talk to Beverly
22 Bassett-Schaffer maybe every two or three weeks. The

1 conversation would generally be fairly wide ranging
2 and would go on from 45 minutes to an hour and a half
3 or two hours and just touch on a number of things
4 that they would be involved with. Sometimes it would
5 be shorter than 45 minutes perhaps, but conversations
6 with Ms. Schaffer generally tended to drag on for
7 some period of time.

8 Q Did you ever take notes of any of those
9 conversations?

10 A I did, of some of them.

11 Q Do you know where those notes are?

12 A No. Most of the handwritten notes that I
13 had in my files I threw out when I left the
14 governor's office. Any memoranda that were of a more
15 permanent nature, similar to some of the documents
16 that you have here, would have been left in the files
17 in the governor's office, and I have no idea where
18 those documents might be at this point.

19 Q Did you retain any notes or any documents
20 in your personal possession after you left the
21 governor's office?

22 A None that I currently have.

1 Q What subsequently happened to anything that
2 you may have removed?

3 A I had, oh, a couple of DayTimers that I
4 kept for another year or so and then threw out that
5 would have had some meetings and notes and calendars
6 and that sort of thing in them, which I routinely
7 would keep those for a couple of years after the year
8 covered by it and then would throw them out.

9 Q After your discussions or discussion with
10 Beverly Bassett-Schaffer regarding the preferred
11 stock proposal presented by Madison, did you discuss
12 your discussion with Beverly Bassett with anyone else
13 from the governor's office?

14 A Not that I recall, and I don't know that
15 it's accurate to characterize it that we had a
16 discussion about it. I think she mentioned to me
17 that Madison had made such a proposal. I don't think
18 we had a lengthy discussion about it. I think she
19 simply made me aware that that proposal had been
20 submitted to the department.

21 Q Do you recall mentioning that discussion --
22 the mentioning of it to you to anyone else?

1 A As I said, it's 10 years. I may well have
2 mentioned it to Betsey, I may not have. I simply
3 don't have any recollection one way or another of
4 whether I mentioned it to anybody else.

5 MR. BRENNER: Off the record.

6 (Discussion off the record.)

7 BY MR. BRENNER:

8 Q We were talking about Beverly
9 Bassett-Schaffer and her discussions. Did she
10 discuss other Madison issues with you besides the
11 preferred stock proposal?

12 A Yes.

13 Q What other issues do you recall?

14 A Well, periodically just generally the
15 status of Madison and what was likely to happen with
16 it.

17 Q Now, when did these discussions start
18 occurring?

19 A Oh, sometime six to 12 months before the
20 time that McDougal was ousted as chairman of the
21 board probably.

22 Q Did Governor Clinton ask you to keep track

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1 of Madison's status?

2 A I don't recall him specifically asking me
3 to keep track of Madison status.

4 Q Do you recall him generally asking you to
5 keep track of the status of any banks?

6 A It would have been part of my general
7 responsibilities to keep up with any financial
8 institutions that the securities department or the
9 bank department thought were in trouble with
10 regulators or had capitalization problems and that
11 some regulatory activity, either by state or federal
12 agencies, would be required. That's part of what I
13 did was talking with agency directors, to keep up
14 with those sorts of issues.

15 Q Did anyone else other than Governor Clinton
16 specifically instruct you or instruct you to keep
17 track of Madison?

18 A Not that of I have any recollection of.

19 Q Who did you discuss Madison related -- did
20 you discuss Madison issues with anyone from the
21 banking department?

22 A I don't recall. I mean, it's possible, but

1 I don't have any recollection.

2 Q Do you recall who was head of the banking
3 department at that time, the time being '85 and '86?

4 A I think Jackson was head of the banking
5 department at that point.

6 Q Did you have regular discussions with
7 Mr. Jackson?

8 A Yes.

9 Q Do you recall in the course of those
10 discussions, did Madison come up?

11 A I don't have any recollection of it. It's
12 entirely possible. Marlon always had plenty of
13 opinions on things within and without his
14 jurisdiction, so it's possible that he may have made
15 some reference to it.

16 Q After discussing Madison issues with
17 Beverly Bassett-Schaffer, did you then subsequently
18 discuss your discussions with Beverly
19 Bassett-Schaffer with the governor?

20 A On occasions I would, if -- probably not
21 every time I had a conversation with Beverly
22 Bassett-Schaffer in which Madison was mentioned would

1 I have a follow-up conversation or memorandum to the
2 governor. There would have been occasions when I
3 would either give him an oral report or perhaps send
4 him a short memo about it, but not on every
5 occurrence where she and I had a conversation in
6 which Madison was mentioned.

7 Q Do you recall any specific occasions?

8 A I think a specific occasion, I think I
9 probably wrote him a memorandum, either shortly
10 before or shortly after or possibly both, the action
11 of the FSLIC enforcing McDougal out at Madison, I
12 think I probably wrote him a memo about probably one,
13 in advance that it was likely to happen, and perhaps
14 a subsequent one that it had happened.

15 Q Did you have any discussions about those
16 memos with the governor?

17 A I don't recall whether I did. I may well
18 have.

19 Q With regard to other institutions that
20 Mrs. Schaffer spoke to you about, did you
21 subsequently report to the governor about any of
22 those institutions?

1 A Yes, I'm sure we had the same type of --
2 either an oral update or brief memo, status of some
3 other institutions besides Madison.

4 Q Do you have any specific recollections?

5 A No, not really specifically.

6 Q No other institutions that you can
7 specifically recall briefing the governor about?

8 A Well, as I said, I think there was an
9 institution at Hot Springs which name was Landmark or
10 something like that, I think I probably -- that was
11 operated, I think the phrase the regulators used at
12 that point was brain-dead for some period of time,
13 vastly undercapitalized, but way down on the list for
14 the FSLIC, or Federal Home Loan Bank to close. And
15 there was an institution in north Arkansas that we
16 had problems with, Guaranty Savings, that we had a
17 number of discussions about.

18 I'm not sure whether Guaranty was a state
19 chartered institution at this point, but that we had
20 a number of discussions about that because there was
21 a fair amount of state money in there, and there were
22 some questions about the extent of the state's

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1 insurance coverage when that institution failed.

2 Q But you specifically remember writing a
3 memo to the governor or at least one memo to the
4 governor about Madison?

5 A I'm pretty sure I wrote him a memo and as I
6 say, either before or after the federal regulators'
7 action to remove McDougal.

8 Q But you have no specific recollection about
9 any of the other S&Ls that Beverly Bassett was
10 charged with overseeing?

11 A Do I have a specific recollection about
12 what?

13 Q About memoing the governor on the other
14 institutions, or briefing him.

15 A I think I've already said that there were
16 other institutions that were somewhat similarly
17 situated to Madison that Bassett discussed with me
18 and that I would have subsequently made the governor
19 aware of, either by an oral briefing or by a short
20 memo.

21 Q Do you know Paul Mallard?

22 A Yes, I know Paul Mallard.

1 Q How do you know Paul Mallard?

2 A Paul Mallard was director of state building
3 services for a period of time.

4 Q When did you meet Paul Mallard?

5 A I don't recall when I first met him.

6 Q Did you ever discuss with him any of the
7 leasing responsibilities that Mr. Mallard had?

8 A Certainly.

9 Q And why did you do that?

10 A I had liaison responsibilities with state
11 building services.

12 Q And did Mr. Clinton, then Governor Clinton,
13 ever instruct you to talk to Mr. Mallard about
14 specific leasing arrangements?

15 A I'm sure he probably did.

16 Q Do you have any particular recollections?

17 A No. There were always various disputes
18 about leasing, actions about SBS or the agencies that
19 they were acting as agents for and going on.

20 Q Do you recall any contractual relations
21 that Mr. Mallard may have entered into on behalf of
22 the state of Arkansas in terms of leasing space from

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1 Madison Guaranty Savings & Loan?

2 A I am aware that state did lease space from
3 Madison, or a subsidiary of Madison.

4 Q When did you become aware of that?

5 A Sometime prior to the state leasing that
6 space.

7 Q What was your opinion of that lease
8 arrangement, if you recall specifically?

9 A I don't recall what my specific opinion
10 was.

11 Q As a general rule, would Mr. Mallard's
12 agency take the lowest available bid for space?

13 A Not necessarily.

14 Q What else would influence that decision?

15 A Could be any number of factors, but
16 depending on the type of facility that was being
17 leased and what the needs of the agency were and so
18 forth. For example, you might have a facility for a
19 county DHS office that you would have two competing
20 facilities wanting to lease, one which had two
21 parking places and one which had 15, and the agency
22 thought they needed 15 parking places, not two, but

1 the two-parking-place facility was a lower square
2 foot rate so you wouldn't necessarily take the lowest
3 bid in that situation.

4 So each type of leasing situation might
5 have specific factors involved that would be taken
6 into consideration other than the lowest square foot
7 cost.

8 Q Do you ever recall any discussions that you
9 were privy to or were made -- or were told about
10 subsequent to their occurrence with regard to the
11 decision to move the Arkansas housing development
12 agency into the Madison Guaranty building in 1984?

13 A I was aware that there were discussions
14 about that going on.

15 Q How did you become aware of those
16 discussions?

17 A I don't know whether I first became aware
18 of it from a conversation with Mallard or from a
19 conversation with Betsey Wright or perhaps a
20 conversation with Wooten Epes, from one of those
21 three people.

22 Q I'm sorry, could you repeat the last name?

1 A Wooten Epes. W-o-o-t-e-n. E-p-e-s, I
2 believe is the last name spelling.

3 Q Who was Mr. Epes?

4 A He was director of ADFA at that point.

5 Q Did Mr. Clinton ever give you any
6 instructions or discuss with you in any way the 1984
7 Arkansas housing development agency lease of Madison
8 Guaranty space?

9 A Not that I recall. I may well have been in
10 a meeting where that was discussed, but I don't have
11 a specific recollection of it at this point.

12 Q Could you characterize the nature and
13 extent of your involvement of state leases of office
14 space by interstate agency, including ADFA and the
15 Arkansas Public Service Commission?

16 A It's difficult to characterize it
17 generally. My involvement occurred only when there
18 was some problem or dispute involving a lease or a
19 leasing decision, and I didn't routinely review all
20 the leasing actions taken by the agency.

21 When there would be problems either
22 involving the agency and a landlord or potential

1 landlords or between SBS and an agency that it was
2 leasing space for and there was some type of problem,
3 it might well reach the level of the governor's
4 office, in which case I was generally involved in it.

5 Q Did Betsey Wright have any involvement, to
6 your knowledge?

7 A Yes.

8 Q And what was her involvement?

9 A Generally same type of involvement that I
10 would have, and that would be to attempt to resolve
11 whatever the problem was.

12 Q Are you familiar with the Arkansas science
13 and technology authority?

14 A Yes.

15 Q How are you familiar with that institution?

16 A It was an agency that was created by
17 statute enacted during the time I was on the
18 governor's staff, and it was an initiative proposed
19 by Governor Clinton.

20 Q Are you familiar with a lease by the
21 Arkansas science and technology authority of space at
22 100 Main Street, which was a building owned by

1 Madison Guaranty?

2 A Is that the building that is characterized
3 as a bus station, former bus station? I think that's
4 probably the same facility. Yes, I'm aware.

5 Q Were you involved in the decision by the
6 Arkansas science and technology authority to lease
7 that space?

8 A Not that I have any recollection of.

9 Q Was Betsey Wright involved?

10 A I don't have any knowledge whether she was
11 or not.

12 Q Was Governor Clinton involved?

13 A Not that I know of one way or the other.

14 Q Do you have any recollection of any
15 discussion with Governor Clinton where state leases
16 of Madison Guaranty owned property were discussed?

17 A I may well have been in a meeting where the
18 lease of space in the Madison building was
19 discussed. I don't have a specific recollection of
20 being in a meeting with the governor where that was
21 discussed, but it is entirely possible that I was.

22 Q And do you recall who else would have been

1 at those meetings?

2 A Since I don't recall specifically having
3 been in such a meeting, I wouldn't have any way of
4 knowing who would have been there.

5 Q Do you recall discussing or being told
6 about state leases of Madison Guaranty owned or
7 controlled space with Betsey Wright?

8 A I think I probably had some discussion with
9 her regarding the lease of the space in the Madison
10 Bank building.

11 Q Do you recall specifically any part of that
12 conversation or conversations?

13 A No, I don't recall specifically. What I
14 recall is that the agency, director at least, didn't
15 particularly want to move there, had some other
16 location I think that he preferred and state building
17 services had made the decision to locate the agency
18 in the Madison space. And the director, it may have
19 been the housing agency at that point and then became
20 ADFA, I don't remember which it was at the time --

21 Q That's the case.

22 A But Wooten didn't particularly want to go

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1 into the Madison space. I don't remember where he
2 wanted to go, but he wanted to go someplace else, so
3 he eventually brought that dispute to the governor's
4 office.

5 Q And what do you recall about that dispute?

6 A That's what I recall about it, was that
7 Mallard had made the decision to rent the Madison
8 space and Wooten Epes didn't want to go there, so
9 that's basically what I remember about that.

10 Q Do you have any knowledge of any
11 discussions between Paul Mallard and Governor Clinton
12 about leasing Madison space?

13 A I don't have any specific recollection.

14 Q Were you told by any party, including
15 Betsey Wright, about the leasing of the Madison space
16 by the state agency?

17 A Told what about it?

18 Q Were you told that the governor instructed
19 Paul Mallard, if possible, to lease space from
20 Madison Guaranty?

21 A I don't recall ever having been told that
22 the governor had directed Mallard to lease space from

1 Madison, if possible.

2 Q Do you recall whether you have been told
3 that the governor was interested in seeing Madison
4 space leased by the state agency?

5 A I don't have any recollection of that at
6 this point.

7 Q I'm curious, did you ever collect
8 information related to examinations of Madison
9 Guaranty by either state or federal examiners?

10 A I'm not following your question.

11 MR. O'CALLAGHAN: Excuse me, Mark, do you
12 mind if we take a quick break here before your
13 question?

14 MR. BRENNER: Off the record.

15 (Discussion off the record.)

16 MR. BRENNER: Could you please read the
17 last question.

18 (The reporter read the record as requested.)

19 THE WITNESS: You mean did I personally
20 obtain and review audit documents, that type of
21 thing? I'm not sure what you're asking.

22 BY MR. BRENNER:

1 Q I mean, were you told by any regulators,
2 either state or federal, or did you receive letters,
3 notes, documents, memoranda from state or federal
4 regulators or examiners about Madison Guaranty? And
5 if so, when did you start to collect that
6 information?

7 A As I had indicated earlier, I received
8 periodic oral briefings from Beverly Bassett-Schaffer
9 about the status of Madison. I think I probably
10 received copies of some correspondence between the
11 federal regulators and Madison in the late stages
12 before McDougal was ousted. I'm not sure. I have a
13 general recollection that Schaffer sent me a copy of
14 a document that the Federal Home Loan Bank officials
15 and/or the FSLIC had sent to Madison.

16 Q Do you recall any discussions with
17 Ms. Schaffer after she returned from Dallas from the
18 1986 Federal Home Loan Bank Board meeting in Dallas,
19 Texas?

20 A I recall we had a conversation subsequent
21 to that meeting in which she told me what had
22 occurred in the course of the meeting.

1 Q What do you recall she told you?

2 A Basically, that the federal regulators had
3 forced McDougal's ouster as the chairman of the board
4 and didn't, in any other way, have operating
5 responsibilities of the S&L.

6 Q Was she concerned that the governor may be
7 critical in her oversight in light of the Federal
8 Home Loan Bank Board came in and issued a cease and
9 desist order?

10 A No, not at all. She had been suggesting to
11 the Federal Home Loan Bank Board and FSLIC for some
12 period of time that that should have been done. As I
13 understood the process at that point in time, the
14 federal regulators had a priority system in which
15 they dealt with troubled institutions. And based on
16 the availability of audit staff and funds to pay off
17 depositors, and that they were working down a list
18 from the larger institutions in which more money was
19 involved toward the smaller institutions. And that
20 the primary reason that action had not been taken in
21 the Madison situation earlier had been a matter of
22 federal priorities, not a state decision, since we

1 didn't have a state guaranty fund.

2 Q Did you ever prepare or review legislation
3 on bank regulation or oversight?

4 A Did I ever review or prepare --

5 Q Legislation. You spoke of your legislative
6 role?

7 A I'm certain at various times I would have
8 reviewed legislation that would have been prepared by
9 the securities department or the bank department
10 dealing with their regulatory authority.

11 Q Do you recall any specific instances where
12 Madison Guaranty had an interest in that legislation
13 that was expressed to you?

14 A Not in any sort of general way, no.

15 Q Did you have any discussions with Betsey
16 Wright about the potential impact of any legislation
17 on Madison Guaranty?

18 A I don't recall. I mean there -- anything
19 of that nature offhand.

20 Q Did you have any discussions with Governor
21 Clinton about Madison Guaranty and its financial
22 crisis?

1 A I think I've said more than once, I did.

2 Q When did you first discuss the particular
3 concerns?

4 A Sometime six, 12 months, perhaps longer
5 before McDougal was ousted, at whatever point I
6 became aware through discussions with Beverly
7 Bassett-Schaffer that the institution was in
8 financial trouble. I don't remember exactly how long
9 that was before McDougal was finally ousted.

10 Q What was his reaction?

11 A I think his reaction was something to the
12 effect of just keep him advised if there were further
13 developments.

14 Q And did you?

15 A Yes.

16 Q And did you discuss with him the actions
17 taken by the Federal Home Loan Bank Board in 1986?

18 A I'm sure I did. I don't have a specific
19 recollection of it, but I'm sure I did, either by
20 memorandum or by an oral briefing.

21 Q Did you ever discuss any Madison-related
22 issues with Mrs. Clinton?

1 A Not that I have any recollection of.

2 Q Did you ever discuss Madison Guaranty's
3 economic troubles with Betsey Wright?

4 A Yes.

5 Q What was said in those discussions?

6 A What I recall is that I would -- basically
7 anything I had reported to the governor, I probably
8 told her the same thing, or oftentimes she may well
9 have been present when I told the governor what
10 information I might have received.

11 Q Did you ever discuss with John Latham
12 Madison's economic problems?

13 A I don't have any recollection of having any
14 conversations with John Latham.

15 Q Do you know who John Latham is?

16 A Yes.

17 Q Who is John Latham?

18 A I think he was a Madison officer and I
19 think may have had the title of President.

20 Q Do you know who Greg Young is?

21 A Not right offhand.

22 Q Do you know who Don Denton is?

1 A I think Don Denton was a Madison officer at
2 one point, or a subsidiary officer, I don't recall
3 which.

4 Q Do you recall having any discussions with
5 Don Denton about Madison's --

6 A No.

7 Q Do you know who Seth Ward is?

8 A Yes.

9 Q Who is Seth Ward?

10 A He's Web Hubbell's father-in-law and at one
11 point was a member of the Little Rock airport
12 commission.

13 Q Were you involved with the appointment of
14 Seth Ward to the Little Rock airport commission?

15 A No, I was not. That's a city appointment,
16 not a state appointment.

17 Q Did you ever see Seth Ward at the
18 governor's office?

19 A Not that I recall.

20 Q Did you ever --

21 A I don't know that I would recognize Seth
22 Ward if I saw him.

1 Q Did you ever have any discussions with Seth
2 Ward about any issues related to Madison Guaranty?

3 A I don't think so.

4 Q Any discussions with Betsey Wright about
5 Seth Ward?

6 A Not that I have any particular recollection
7 of.

8 Q Any discussions with Governor Clinton about
9 Seth Ward?

10 A Not that I recall.

11 Q Any discussions with Mrs. Clinton about
12 Seth Ward?

13 A Not that I recall.

14 Q Did Governor Clinton ever approach you and
15 discuss his Whitewater Development Corporation
16 investment with you?

17 A Not that I have any recollection of.

18 Q Did Mrs. Clinton ever discuss with you her
19 involvement in Whitewater Development Corporation?

20 A Not that I recall.

21 Q How did you come to know about the business
22 relationship between Governor Clinton and Jim

1 McDougal in Whitewater Development Corporation?

2 A As I had said earlier, it is my
3 recollection that one year Betsey Wright was in the
4 process of preparing a financial disclosure statement
5 that the governor and all elected state officials
6 were required to file on an annual basis, and there
7 was some question as to how the governor and First
8 Lady's interest in that venture should be reported
9 and that she had discussed that with me. That is my
10 recollection of how I first became aware. I may have
11 known of it in some general way before that time, but
12 I think that's the first time.

13 Q Do you recall when that discussion with
14 Betsey Wright took place?

15 A No, I don't.

16 Q Did Mr. Clinton ever discuss with you his
17 tax liabilities in relation to Whitewater?

18 A No.

19 Q Did Betsey Wright ever discuss with you
20 Mr. Clinton's tax liabilities in relation to
21 Whitewater?

22 A Not that I recall.

1 Q Did Mrs. Clinton ever discuss the
2 governor's tax liabilities?

3 A No.

4 Q Did she ever discuss her own tax
5 liabilities?

6 A No.

7 Q Did you discuss with anyone the tax
8 liabilities of Mr. and Mrs. Clinton with regard to
9 Whitewater Development Corporation?

10 A If the question is along in that period of
11 time, no. Have I had coffee shop conversation in the
12 last couple of years about reported problems about
13 that, sure, everybody in Little Rock has talked about
14 the coverage of it.

15 Q Have you ever met the late Vincent Foster?

16 A Yes.

17 Q When did you meet him?

18 A I don't recall.

19 Q Do you have a general recollection of the
20 first time you met him?

21 A Oh, probably sometime in the late '70s,
22 early '80s I imagine.

1 Q Was he, as you understand it, already at
2 the Rose Law Firm at that time?

3 A I am sure he was.

4 Q And do you recall how you came to meet
5 Mr. Foster?

6 A No.

7 Q Did Mr. Foster ever come to the governor's
8 office?

9 A I'm sure he has. I don't recall specific
10 situations.

11 Q Did you ever discuss Whitewater Development
12 Corporation or anything related to Whitewater
13 Development Corporation with Mr. Foster?

14 A Not that I recall.

15 Q Did Mr. Clinton ever discuss with you his
16 personal financial condition?

17 A I don't have any recollection of that ever
18 occurring. I think it very unlikely that he would
19 have.

20 Q Did Mrs. Clinton ever discuss their
21 personal financial condition with you?

22 A No.

1 Q Have you ever met Chris Wade?

2 A Not as far as I know.

3 Q Do you know who Chris Wade is?

4 A Yes.

5 Q How do you know Chris Wade?

6 A From newspaper accounts involving the
7 Whitewater land development that he was a real estate
8 agent who had some involvement in that project.

9 Q What's your understanding -- you answered
10 that question. Have you ever met Rosalie Wade?

11 A Not to my knowledge.

12 Q Do you know who Rosalie Wade is?

13 A I believe the newspaper reports have
14 identified Rosalie Wade as being Chris Wade's wife.

15 Q Have you ever heard of a place called
16 Campobello Island?

17 A Yes.

18 Q When did you come to hear that?

19 A I don't recall.

20 Q Do you recall why Campobello Island rings a
21 bell to you?

22 A I don't recall how I first --

1 Q What's your understanding of Campobello
2 Island as it relates to Madison Guaranty?

3 A A general understanding that there was some
4 type of real estate venture that involved Madison or
5 one or more of its subsidiaries and various other
6 investors, including Sheffield Nelson, and I believe
7 Jerry Jones and perhaps others, and that the
8 investment was less than successful.

9 Q Do you recall what other investors?

10 A No, I don't.

11 Q Are you aware that Beverly
12 Bassett-Schaffer, before becoming the securities
13 commissioner, did work for Madison Guaranty on
14 Campobello Island?

15 A I don't know whether I'm aware of that or
16 not.

17 Q Are you aware that Jim Guy Tucker's law
18 firm was doing work for Madison Guaranty before
19 Beverly Bassett-Schaffer became the Arkansas
20 securities commissioner?

21 A Yes.

22 Q How did you become aware of that?

1 A I don't know.

2 Q And you stated earlier you are aware that
3 Beverly Bassett-Schaffer worked for the Tucker law
4 firm?

5 A Yes.

6 Q Did you know or did Mr. Clinton ever
7 discuss with you Jim McDougal's involvement in
8 Campobello Island?

9 A Not that I recall.

10 Q Did Betsey Wright?

11 A She may have in some passing sort of
12 reference, but I don't recall any in-depth discussion
13 about it.

14 Q Do you recall even the passing discussions?

15 A No, but it's certainly possible that she
16 may have made some mention of it to me.

17 Q Did Mr. Clinton ever mention to you that
18 Mr. McDougal was attempting to get Mr. Clinton to
19 endorse the property as a vacation site?

20 A Not that I recall.

21 Q Have you had any discussions with anyone
22 other than the people already mentioned about

1 Campobello Island?

2 A Oh, sure, any number of us here in the last
3 year or so have joked about Jones and Nelson's
4 involvement and how they managed to seem to get their
5 money back out of that venture and other folks
6 didn't.

7 Q What about during your tenure in the
8 governor's office?

9 A Not that I recall.

10 Q Did you ever discuss with Beverly
11 Bassett-Schaffer anything about Campobello Island or
12 Mr. McDougal's involvement therein?

13 A Not that I recall.

14 Q Do you ever recall seeing a bust of
15 President Roosevelt that was presented as a gift from
16 Mr. Clinton to Mr. McDougal?

17 A No, I don't recall.

18 Q We spoke earlier about Castle Sewer &
19 Water, and I want to speak more generally about the
20 Castle Grande real estate development. Are you
21 familiar with the Castle Grande real estate
22 development?

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1 A Only from what I read in the newspapers in
2 the last year.

3 Q You didn't come to know of it at any point
4 in time during your tenure in the governor's office?

5 A I don't believe so. I mean I might have
6 heard some mention of it as being a McDougal
7 development or it being -- hearing it advertised on
8 the radio, but in terms of any sort of knowledge
9 beyond that, no.

10 Q Did you ever discuss with the governor the
11 Castle Grande real estate development, Governor
12 Clinton?

13 A Not that I have any recollection of.

14 Q Did you ever discuss the Castle Grande real
15 estate development with Betsey Wright?

16 A Not that I have any recollection of.

17 Q Did you ever discuss the Castle Grande real
18 estate development with Mrs. Clinton?

19 A No.

20 Q Did someone other than the Clintons and
21 Betsey Wright ever mention to you that the Rose Law
22 Firm had performed legal work associated with Castle

1 Grande?

2 A Not that I recall.

3 Q Did anyone ever mention to you that

4 Mrs. Clinton performed legal work in association with

5 Castle Grande?

6 A Not that I recall.

7 Q Have you ever heard of the Industrial

8 Development Corporation?

9 A The Industrial Development Corporation?

10 Q Yes, sir.

11 A I don't know whether I have or not.

12 Q Would it jar your memory if I told you that
13 the Industrial Development Corporation was the owner
14 of the Castle Grande real estate from Mr. McDougal
15 and Madison Guaranty?

16 A Not particularly.

17 Q What was your understanding of the
18 relationship between Mr. McDougal and Mr. Ward?

19 A I don't have any understanding of what
20 their relationship was.

21 Q Have you ever heard of "wet/dry
22 legislation"?

1 A Sure.

2 Q And this is in relation to alcohol service?

3 A Yes.

4 Q Have you ever, in your capacity in the
5 governor's office, come across -- did you come across
6 the issue of a brewery being opened at Castle Grande?

7 A Not that I recall.

8 Q Did you ever come to know that Jim McDougal
9 was seeking to have a brewery opened at Castle
10 Grande?

11 A Not that I recall.

12 Q Did Mr. Clinton ever approach you about
13 legislation allowing a brewery in the state of
14 Arkansas to have a tasting room on its premises?

15 A I don't recall.

16 Q Did Betsey Wright ever approach you about
17 legislation to allow a brewery to have a tasting room
18 on the premises?

19 A Not that I recall.

20 Q In your oversight capacity for legislation,
21 do you recall any legislation that would allow a
22 brewery to have a tasting room on the premises?

1 A I don't recall, but as I said earlier, we
2 probably had a couple of thousand pieces of
3 legislation at every regular session of the general
4 assembly, and I certainly don't remember nearly all
5 of them.

6 Q Did you have any contacts with anyone from
7 the alcohol control board about legislation affecting
8 wet/dry legislation?

9 A I'm sure when legislation was pending that
10 affected the operation of ABC or ABC administration
11 or ABC enforcement, that I probably had conversations
12 with agency officials about it. I can't give you a
13 specific.

14 Q Do you have any recollection of any
15 discussions you had with anyone related to the
16 alcohol control board regarding the brewery at Castle
17 Grande?

18 A I don't recall knowing anything about a
19 brewery at Castle Grande.

20 Q Do you know William Lyon?

21 A No.

22 Q I wanted to speak briefly about Maple Creek

1 Farms and the health department. You stated earlier
2 that you recall having discussions or being in a room
3 where discussions took place over Jim McDougal's
4 sewage problems at Maple Creek Farms?

5 A I think what I indicated was that I was
6 aware that there was a controversy between McDougal
7 and the Health Department which eventually McDougal
8 brought to a level of the governor's office. I don't
9 know whether I was actually in a meeting where that
10 was discussed or not. It is entirely possible I may
11 have been in a meeting where that issue was
12 discussed.

13 Q Do you recall any discussions or
14 communications between Mr. McDougal and Governor
15 Clinton about that issue?

16 A I don't recall specifically any
17 communications.

18 Q Do you recall generally?

19 A No. I'm aware that there were some
20 communications from McDougal to the governor's office
21 about the problem. I don't, at this point, recall
22 whether they were orally or in writing or both.

1 Q Do you recall any discussions you had with
2 Betsey Wright about Maple Creek Farms or
3 Mr. McDougal's problems with the Health Department?

4 A Just again, generally probably more so,
5 just being in a meeting where that, among other
6 issues, was being discussed.

7 Q Do you know Janice Choate?

8 A Yes.

9 Q Who is Janice Choate?

10 A Janice Choate at the period of time that
11 we're discussing was a staff person in the governor's
12 office who worked on health and human services issues
13 and she worked under the direction and supervision of
14 Carol Rasco.

15 Q And do you recall having any discussions
16 with Janice Choate or being involved in any
17 discussions with Janice Choate discussing the Maple
18 Creek Farms sewage problem on Mr. McDougal's property
19 with the health department?

20 A If I was at a meeting that it was being
21 discussed, it was probably either discussed by Janice
22 Choate or Carol Rasco, but I don't specifically

1 recall being in a meeting where it was discussed. I
2 was generally aware of the dispute.

3 Q Have you had any communications with anyone
4 from the state health department about Maple Creek
5 Farms?

6 A I don't recall that I had.

7 Q Have you ever heard the name Lex Dobbins?

8 A I don't recall.

9 Q Do you recall Janice Choate ever mentioning
10 the removal of Lex Dobbins from his position?

11 A I don't recall who Lex Dobbins is.

12 Q Do you recall ever hearing the name Lex
13 Dobbins?

14 A I don't recall hearing the name Lex
15 Dobbins.

16 Q Do you recall attending any meetings where
17 Mr. McDougal discussed either Maple Creek Farms,
18 Castle Grande, Castle Sewer & Water or oversight of
19 Madison Guaranty?

20 A I don't think so. I don't recall being in
21 a meeting in which McDougal discussed any of those
22 issues. I know there was a meeting involving the

1 dispute between the health department and Maple Creek
2 Farms. I don't think that was it.

3 Q Do you know who was in attendance at that
4 meeting?

5 A No, I don't know who was in attendance at
6 that meeting.

7 Q Would it be likely that Betsey Wright would
8 be in attendance for such a meeting?

9 A Yes.

10 Q Do you know who David Hale is?

11 A Yes.

12 Q Who is David Hale?

13 A He was formerly a Pulaski County municipal
14 judge.

15 Q Do you know anything else about Mr. Hale's
16 business interests?

17 A That at one point he was the -- I don't
18 know what the title is, manager of a Small Business
19 Investment Corporation.

20 Q Do you have any information about the
21 appointment of David Hale to his judgeship by
22 Governor Clinton?

1 A No, I don't recall any of the specifics.

2 Q Did you know he was appointed by Governor
3 Clinton?

4 A I don't recall whether he was appointed by
5 Governor Clinton or not.

6 Q Were you in any meetings where there was a
7 discussion of about Mr. Hill's appointment to the
8 bench?

9 A Not that I recall.

10 Q Were you ever consulted in any way about
11 the appointment of David Hale to the bench by the
12 governor?

13 A Not that I recall.

14 Q Have you ever met Mr. Hale?

15 A I probably have at some point, but I
16 couldn't tell you when or where. I don't know when.

17 Q Have you ever heard of Capital Management?

18 A Yes.

19 Q How have you heard of that?

20 A I believe that's the small business
21 investment organization that Hale ran.

22 Q When did you first hear about Capital

1 Management?

2 A I don't recall.

3 Q During your tenure in the governor's
4 office, did you ever have any discussions with
5 Mr. Hale?

6 A I don't think so, other than perhaps -- I
7 don't have any recollection of having any official
8 contacts with him. I may have seen him at a
9 Democratic Party function or a bar function during
10 the time that I was on the governor's staff, but I
11 don't recall having had any discussions with him on
12 any issues involving my responsibilities in the
13 governor's office.

14 Q Have you ever heard of allegations made by
15 David Hale that President Clinton, while still
16 governor, pressured him into making a \$300,000 loan
17 to Susan McDougal?

18 A I read that in the newspapers.

19 Q Do you have any other knowledge about that?

20 A No, I do not.

21 Q Did Mr. Clinton ever discuss with you or
22 communicate to you in any way any information about

1 Capital Management?

2 A No.

3 Q Did Mr. Clinton ever discuss with you or
4 communicate to you in any way any information about
5 David Hale?

6 A Not that I recall.

7 Q Did Mrs. Clinton ever discuss with you or
8 communicate to you any information about Capital
9 Management?

10 A No.

11 Q Did Mrs. Clinton ever discuss with you or
12 communicate with you in any way any information about
13 David Hale?

14 A No.

15 Q Did Betsey Wright ever communicate with you
16 in any way or have discussions with you about Capital
17 Management?

18 A Not that I recall.

19 Q Did Betsey Wright ever discuss with you or
20 have communications with you in any way about David
21 Hale?

22 A I don't recall. It is possible that we may

1 have had some conversations about his judicial
2 appointment or at a later time, I believe there was
3 some type of local judicial pension legislation
4 pending that had primarily been designed to benefit
5 Hale and perhaps a few others and we may have had
6 some conversations about that. I think that happened
7 while I was still in the governor's office.

8 Q I have spoken with you about Jim McDougal.
9 Have you ever met Susan McDougal?

10 A Yes.

11 Q When did you meet with Ms. McDougal?

12 A '78, '79, sometime along in there. '77
13 maybe.

14 Q And do you recall having any meetings with
15 Mrs. McDougal while you were at the governor's
16 office?

17 A Any meetings with her?

18 Q Any meetings with her.

19 A She tried to sell me a condominium one
20 time. I didn't buy it.

21 MR. BRENNER: Off the record.

22 (Discussion off the record.)

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1 BY MR. BRENNER:

2 Q Did you have any discussions with Governor
3 Clinton while you were at the governor's office about
4 Susan McDougal?

5 A I'm sure her name may have been mentioned
6 in some discussions that they had at various times in
7 some sort of social way, if not in an announced
8 meeting.

9 Q Do you recall anything relating to her role
10 as a sales agent for any McDougal or Madison related
11 properties?

12 A Not any type of substantive conversations.
13 The White Horse thing was kind of a standing joke and
14 various times I was kidded about it, and there may
15 have been some conversations along those lines, but
16 any sort of substantive conversations, no.

17 Q And you were kidded about it because you
18 contemplated buying a condominium?

19 A No, I didn't say I was kidded about it. It
20 was a thing that people kind of generally joked
21 about.

22 Q Did you ever receive any phone calls from

1 Mrs. McDougal while you were in the governor's
2 office?

3 A Not that I recall.

4 Q Did you ever talk to Betsey Wright about
5 Mrs. McDougal in terms of her working at Madison
6 Guaranty or in terms of her commission sales?

7 A Not that I recall. It's possible.

8 Q Have you ever met Jim Blair?

9 A Yes.

10 Q When did you meet Mr. Blair?

11 A I'm not sure when I first met him.

12 Q Did you ever have any discussions with
13 Mr. Blair while you worked in the governor's office?

14 A Yes.

15 Q Do you recall any discussions with
16 Mr. Blair about the personal finances of the
17 governor?

18 A No.

19 Q Do you recall any discussions with
20 Mr. Blair about the commodities trading activities of
21 Mr. Blair?

22 MR. COLE: I'm going to instruct the

1 witness not to answer that question. That's
2 explicitly outside the scope of our resolution.

3 MR. BRENNER: Off the record.

4 (Discussion off the record.)

5 BY MR. BRENNER:

6 Q Back on the record, please.

7 Do you recall having discussions with
8 Mr. Blair while you were at the governor's office?

9 A Yes.

10 Q What was the nature and extent of those
11 discussions with Mr. Blair?

12 A I don't recall specifically. I know that
13 at one point he played some role in trying to reach a
14 resolution of this dispute involving state regulation
15 of AP&L and Arkansas's responsibility for a share of
16 the Grand Gulf nuclear generating station, owned by
17 then Middle South, now Energy Corporation. He was
18 also interested in University of Arkansas,
19 Fayetteville campus. His wife was on the faculty
20 there. There were probably occasions where I talked
21 with Blair about higher ed issues.

22 Q Did you ever meet Diane Blair?

1 A Yes.

2 Q When did you meet Diane Blair?

3 A Oh, late '70s probably.

4 Q Did you ever have any discussions with
5 Governor Clinton about Mr. Blair?

6 A Yes.

7 Q And what was the nature and extent of those
8 discussions?

9 A Some of it would have had to do with Jim
10 Blair's trying to help work out a resolution of the
11 Grand Gulf issue. At a later point probably his
12 appointment to the University of Arkansas board of
13 trustees. There may have been others.

14 Q Did Mr. Clinton discuss specifically
15 Mr. Blair's appointment to the board of trustees?

16 A I assume we probably discussed it. I don't
17 recall specifically, but I imagine we did.

18 Q Was there any discussion about the
19 regulation and oversight of Tyson Foods?

20 MR. PORTNOY: Object.

21 MR. COLE: I'll object as outside the scope
22 of the resolution. The resolution clearly

1 delineates, and I don't want to take the time to read
2 it all into the record, the subject matter of this
3 inquiry. And while there's certainly room for
4 latitude about matters that are reasonably related to
5 the things that are listed in the subpoena, I'm
6 sorry, in the resolution, that clearly is not
7 within --

8 MR. BRENNER: I'll move forward.

9 Off the record.

10 (Discussion off the record.)

11 MR. BRENNER: Back on the record.

12 BY MR. BRENNER:

13 Q I just wanted to flesh out a little. You
14 stated that you have met Jim Blair, but you don't
15 recall when you met Mr. Blair?

16 A Probably sometime in the late '70s.

17 Q And do you recall in what context you met
18 Mr. Blair?

19 A No.

20 Q Have you ever spoken with -- do you know
21 who Steve Smith is?

22 A Yes.

1 Q Who is Steve Smith?

2 A Steve Smith is currently a faculty member
3 at the University of Arkansas, Fayetteville campus.
4 During Governor Clinton's first term as governor, he
5 was a senior member of the governor's staff.

6 Q With regard to Mr. Blair, other than the
7 nuclear issue that you mentioned and the Fayetteville
8 board of trustees issue that you mentioned, did you
9 have any other contacts with him in your professional
10 capacity working for the governor?

11 A Higher ed issues generally.

12 Q Other than higher ed issues?

13 A Not that I recall specifically at this
14 point.

15 Q When did you first meet Steve Smith?

16 A Probably in late '76.

17 Q And did you have discussions with Mr. Smith
18 in your capacity in the governor's office?

19 A During Clinton's first term, Smith and I
20 were both on staff, and for a period of time he was
21 more or less my direct supervisor.

22 Q And after Mr. Smith left the governor's

1 office during the second term and subsequent terms,
2 did you have any dealings with Mr. Smith?

3 A I don't think I had any dealings with him.
4 I would have seen him from time to time.

5 Q And what would you talk about with
6 Mr. Smith?

7 A Oh, social sort of visit or talk about
8 politics generally.

9 Q Would you talk about banking or securities
10 issues?

11 A Not that I recall.

12 Q When Mr. Smith worked in the governor's
13 office, who did he report to?

14 A Initially he reported directly to the
15 governor. There were three senior staff people who
16 were more or less coequal senior staff people, all of
17 whom reported directly to the governor. After a year
18 or so the staff was reorganized and Rudy Moore became
19 chief of staff and Smith would have reported to Moore
20 at that point. I think he left shortly thereafter.

21 Q Who are the three staff directors?

22 A Steve Smith, Rudy Moore and John Danner,

1 D-a-n-n-e-r, John Danner.

2 Q Do you know a gentleman by the name of
3 Bobby Bratton?

4 A I don't think so.

5 MR. BRENNER: I believe at this point I
6 have no further questions. Off the record.

7 (Discussion off the record.)

8 MR. PORTNOY: I would like the record to
9 reflect that Mr. Nappi will be questioning the
10 witness for a period and that we've discussed it and
11 we have no objection, provided the subjects Mr. Nappi
12 covers are new subjects rather than subjects that
13 have been covered by Mr. Brenner. If they are
14 subjects that have been covered by Mr. Brenner, then
15 we are going to object.

16 MR. NAPPI: I can't promise that there will
17 be subjects that I'm not -- that Mr. Brenner did not
18 cover. What I do promise is to focus on the
19 particular issues within the subject areas that
20 Mr. Brenner might not have covered.

21 MR. PORTNOY: I'm going to object to the
22 entire proceeding, then. If it's a new subject

1 matter, that's fine. If it's going to be going over
2 old ground, I'm going to object to it and we're going
3 to have to hash it out before we go forward.

4 MR. BRENNER: Off the record.

5 (Discussion off the record.)

6 MR. NAPPI: Let's go back on the record.

7 Let the record indicate that Mr. Nappi will
8 ask several pointed follow-up questions and try to be
9 as expeditious as possible and then we can move on
10 and let the Minority staff ask their redirect
11 questions and try to wrap things up as quickly as
12 possible.

13 EXAMINATION

14 BY MR. NAPPI:

15 Q I would like to just discuss Castle Sewer &
16 Water and the veto of the deregulation bill in 1987
17 quickly, a few questions. I would redirect the
18 witness's attention to a document Bates stamped DKRT
19 800527.

20 A Yes.

21 Q It's the April 14 dated memo to BC.

22 MR. PORTNOY: If I might correct the

1 record, I believe it's Bates stamped 572.

2 MR. NAPPI: Did I say 572?

3 MR. PORTNOY: 527.

4 MR. NAPPI: I stand corrected. 572, I
5 apologize.

6 MR. PORTNOY: No problem.

7 BY MR. NAPPI:

8 Q Regarding this document, and the April 14
9 date, prior to this date, you had suggested a veto of
10 legislation on constitutional grounds to then
11 Governor Clinton; is that correct?

12 A That's correct.

13 Q And he had concurred in your agreement?

14 A That's correct.

15 Q Did you ever discuss the telephone call
16 that this document memorializes with Governor
17 Clinton?

18 A What telephone call?

19 Q Excuse me, it's -- the discussion,
20 Mr. Randolph dropped by, the conversation that this
21 entailed.

22 A Is your question did I specifically discuss

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1 with then Governor Clinton Randolph's having stopped
2 by the office to talk to him?

3 Q About this legislation.

4 A I don't recall whether I specifically
5 discussed with Governor Clinton the fact that
6 Randolph had come by. I did discuss with him on some
7 occasions between this date and the passage of the
8 final bill the fact that Randolph was angry that the
9 bill had been vetoed.

10 Q Did then Governor Clinton express to you
11 his change in position on this legislation or the
12 need to resolve this issue after learning of the
13 concerns that Mr. Randolph had?

14 MR. PORTNOY: Just for the record, I would
15 like to clarify that the question assumes that
16 Governor Clinton changed his position, which was not,
17 I believe, the prior testimony of the witness.

18 BY MR. NAPPI:

19 Q You're right. That is correct. And I
20 apologize for the phrasing of that question. Let me
21 ask you this question. Did Governor Clinton ever
22 express to you a need to resolve this issue, the

1 issue being the deregulation of small sewer and water
2 companies?

3 A It is my recollection that the discussion
4 or discussions that I had with the governor regarding
5 this legislation was that if there was a way that the
6 legislation could be redone in a way that addressed
7 the constitutional problem and did not create other
8 problems, then he wouldn't be opposed to considering
9 it at a later time.

10 Q Was this after Mr. Randolph's visit?

11 A I assume it probably was.

12 Q Why would you assume that?

13 A As I had indicated earlier, I think
14 Randolph may well have called the governor's office
15 prior to his coming by, talked to me, not been
16 satisfied with the answer and then came by to see the
17 governor himself.

18 Prior to Randolph raising the issue, we
19 weren't aware that anyone was upset about the veto of
20 the bill.

21 Q Why do you believe Randolph may have called
22 prior to this?

1 A That is my general recollection is that he
2 called the office and was routed to me, didn't like
3 the answer he got so then showed up to try and talk
4 to the governor directly about it.

5 Q Did Mr. Tucker, Jim Guy Tucker, that is,
6 ever talk to the governor about this issue?

7 A As I said earlier, I don't know whether he
8 did or not based on my recollection at this point in
9 time. It is entirely possible that he did. Clearly
10 they communicated in writing based on the letter that
11 you-all had shown me earlier, but I don't recall
12 whether anyone ever told me that Tucker and Clinton
13 talked.

14 Q But Governor Clinton did make it clear that
15 if it could be resolved in a constitutional way, that
16 was acceptable?

17 A That if the constitutional problem could be
18 resolved and that whatever alternative did not
19 present other problems, that he would not be opposed
20 to having the legislation considered in a special
21 session at some unspecified time in the future.

22 Q Do you recall the context in which he

1 expressed this to you?

2 A The context was the discussion about the
3 veto of the bill, and probably there was more than
4 one discussion about it in the period of time between
5 when the bill was vetoed and a special session was
6 convened in June.

7 Q He expressed this to you during your
8 briefing of him on why he should veto the
9 legislation?

10 A That's not what I said.

11 Q I'm sorry if I'm not getting it clear.
12 When did he express to you his interest in -- or I
13 shouldn't say interest -- his amenability to
14 resolving this issue?

15 A At some time after he became aware of the
16 information that was contained in the later memo that
17 I sent him, I would imagine. I don't recall
18 specifically.

19 Q That later memo being your memo to him that
20 was previously introduced Bates stamped DKRT
21 800574-A?

22 A Probably sometime between the 14th of April

1 and sometime around this memorandum. I don't recall
2 specifically whether that would have been after this
3 memorandum but before the May 19 one or after the May
4 19. It's been 10 years.

5 Q I understand.

6 A I don't remember specifically what date it
7 occurred. What I recall is that at some point in
8 this general time frame, Governor Clinton indicated
9 that if an alternative could be prepared that
10 addressed the constitutional problem, did not create
11 other problems, that he would be willing to have it
12 considered in a special session.

13 Q Okay. Did Governor Clinton make it clear
14 to you that he wanted to do this?

15 A It was not my responsibility to find a
16 solution to this issue. It was my responsibility to
17 collect some background information, which I did,
18 provided to him why the bill had been introduced,
19 what the problem was as far as Madison was concerned
20 as it turned out, and then if the proponents of the
21 legislation could come up with an acceptable
22 alternative legislation that we would consider it.

1 Q So the governor asked you to look into the
2 Madison issue?

3 A No.

4 Q With respect to this?

5 A No, no.

6 Q That was an issue that you discovered when
7 you did your background search?

8 A That is what I determined the problem that
9 is noted in the May 19 memo, which I became aware of
10 after talking with Jim Guy Tucker, and it's that
11 information that I passed on to Governor Clinton in
12 the May 19, 1987 memo.

13 At the time the bill was vetoed, I had no
14 information that Madison Guaranty or Castle Water &
15 Sewer or any other Madison subsidiary was involved.
16 It is my strong impression that Governor Clinton had
17 no information that this legislation pertained to
18 Castle Water & Sewer or Madison or any Madison
19 related subsidiary.

20 Q Once you informed Governor Clinton that
21 this legislation did have an impact on Madison or its
22 subsidiaries, did it change his view on the need for

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1 legislation?

2 A He did not have a view on the need for
3 legislation to begin with. We vetoed a bill because
4 it violated a specific provision of the state
5 constitution. It was common practice if you vetoed a
6 bill proposed by a member of the general assembly,
7 which we tried to avoid doing, as you might well
8 imagine, any more often than was necessary because
9 you had to work with those people again and again.
10 You didn't like to veto a member's bill unless there
11 was a pretty strong reason to do so.

12 If it became necessary to veto a bill, then
13 it was common practice to express to that member of
14 the House of Representatives or the Senate that if
15 they could come up with an alternative way to address
16 whatever issue had motivated the introduction of the
17 bill, that we would take another look at it at some
18 point down the road, whether in the regular session
19 or special session.

20 So it was common practice to express to
21 proponents of legislation, come up with another way
22 to deal with this issue and we'll take a look at it.

1 I mean it certainly was not unique to this particular
2 piece of legislation.

3 Q Okay. But Governor Clinton did not
4 specifically direct you to consider alternatives
5 until Mr. Randolph's intervention?

6 A Governor Clinton did not direct me at any
7 time, based on my recollection, to consider
8 alternatives. What he asked me to do through Betsey
9 was to contact Tucker and get some additional
10 information about why the bill had been brought
11 forward in the first place.

12 Q But that was after Mr. Randolph's initial
13 intervention, not in response to the Senator or
14 legislator's queries about why his legislation had
15 been vetoed?

16 A I probably talked with Representative
17 Wilson, who was the sponsor of the bill. That was
18 common practice, before you vetoed somebody's bill.
19 I don't remember whether Representative Wilson had
20 indicated a desire to have another shot at it or not.

21 Q But I'm not talking about your liaison with
22 a Representative or Senator. I'm talking about your

1 contact with your ultimate boss, then Governor
2 Clinton.

3 A It is my recollection that until either a
4 Randolph conversation with me or the Randolph visit
5 to the governor's office noted in the April 14
6 meeting, that we did not have any reason to think
7 that there was any problem created by the veto of the
8 bill, since we didn't know what issue was attempting
9 to be addressed by the legislation.

10 Q And the ultimate problem that you saw after
11 doing your review of the issue, and that you captured
12 in this memorandum to the governor, was not only the
13 concerns that Randolph and Jim Guy Tucker had with
14 this legislation and how it would affect their
15 business venture but the possibility of litigation
16 that would impact Madison Guaranty?

17 A That's a mischaracterization of what I
18 said.

19 Q I apologize then.

20 A I did not see a problem. What I did was
21 report to the governor what had been described to me
22 by Jim Guy Tucker as being a problem created by the

1 veto of the bill.

2 Q Why would litigation against Madison
3 Guaranty be a problem that the governor of Arkansas
4 would need to know about?

5 A It is not the problem that he needed to
6 know about. He had people who were affected by a
7 piece of legislation upset about his decision to veto
8 it. He asked me to find out what the background was,
9 why they were upset, what the legislation was
10 intended to address, which is what I did, and then
11 reported to him.

12 He did not direct me to fix their problem
13 or suggest that it was the governor's office's
14 responsibility to fix that problem, merely to find
15 out what the issue was that had motivated the
16 introduction of the legislation and why Randolph and
17 perhaps others who were affected by it were concerned
18 about the veto, which is what I did and reported to
19 him.

20 Q Now, I follow you that far. I follow you,
21 I mean there's small businessmen that are interested
22 in as much deregulation of their industry as they can

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1 acquire, I assume. I don't understand why the
2 possibility of litigation with Madison Guaranty would
3 be a problem that you were asked to track down.

4 A I was not asked to track --

5 Q Or why it would be a problem for
6 Mr. Tucker, who you were asked to contact.

7 A At the time I was asked to contact
8 Mr. Tucker, I did not know what the problem was that
9 had been apparently created, at least in the minds of
10 some, by the veto of the legislation. To the best of
11 my knowledge, the governor did not have that
12 information or else it would not have been necessary
13 for Betsey Wright to have suggested that I call Jim
14 Guy Tucker and get that information.

15 Q Did Jim Guy Tucker express to you why a
16 lawsuit against Madison Guaranty, a savings and loan
17 he was not employed by, would be a problem for him?
18 I just ask because this memorandum discusses
19 litigation with Madison Guaranty.

20 A What I reported was what Mr. Tucker told
21 me. I don't know that he said it was a problem for
22 him. He indicated that unless some type of

1 legislative solution was in place, that litigation
2 was likely to occur. I reported that.

3 Q Did he expand on what the implications of
4 that litigation would be?

5 A It is my recollection that the information
6 I got from Mr. Tucker in that conversation, or it may
7 have been two conversations, is recorded in that memo
8 dated May 19.

9 Q And this memo of May 19 does not refresh
10 your recollection as to any information that may have
11 been passed on during that conversation, other
12 than --

13 A What that memo suggests to me is that the
14 information, and all of the information that I
15 received in my conversation or perhaps two
16 conversations with Governor Tucker, is contained in
17 that memorandum. I would not have had any reason to
18 have selectively not included some information I
19 gathered in that conversation in a report to the
20 governor.

21 Q Fair enough. How did you come to know that
22 Wooten Epes did not want to move to the Madison

1 building?

2 A He probably called me and told me he
3 didn't, or else Paul Mallard called me and told me
4 Wooten wasn't being cooperative. One or the other of
5 them called and told on the other one.

6 Q Did Epes or Mallard express why they did
7 not want to move?

8 A It is my recollection that Wooten's stated
9 objection was that the area was not particularly safe
10 and that he was concerned about the safety of his
11 employees, particularly his female employees, going
12 from the building to their cars late in the evening,
13 particularly in the winter when it would be dark.
14 That, as I recall, was his primary stated objection.
15 There may have been others, but that was a primary
16 objection on his part.

17 Q Did you pass along that objection to any of
18 your superiors in the governor's office?

19 A There were discussions about that issue.
20 Wooten talked -- I know talked with Betsey about it.
21 There were -- the dispute was fairly intense between
22 the two agencies. It went on for some period of

1 time, I don't recall how long, so there were several
2 discussions about it.

3 Q Were you ever involved in any discussions
4 with Governor Clinton regarding --

5 A I don't have any specific recollection of
6 that. I may well have.

7 Q Do you have any recollection of learning
8 that this move would occur because it was a
9 Madison-owned building?

10 A No.

11 Q Were you involved in any contacts with
12 anyone at the governor's office that indicated the
13 need to make this move because the leasehold would be
14 a Madison-controlled lease?

15 A I don't have any recollection of any
16 conversation in which the governor or Betsey Wright
17 indicated that the SBS decision should stand because
18 it was Madison property.

19 Q Do you have any specific recollection of
20 discussing any state regulated savings and loan with
21 Governor Clinton, other than Madison Guaranty?

22 A As I had indicated earlier, there were two

1 or three other state chartered S&Ls that were in the
2 same type of trouble that Madison was and that I made
3 him aware of their situation just as I made him aware
4 of Madison's situation, either orally or through --

5 Q I just wanted to clarify that you had --

6 A -- a memorandum. But I can't name them
7 right now and tell you specifically what I told him
8 or whatever, but I know I did make him aware that
9 there were problems with --

10 Q You're specifically aware of having told
11 him there's a problem with --

12 A I can't tell you when I told him and what I
13 told him. What I can tell you is that based on my
14 recollection at this point in time, that the way I
15 interacted with the securities department was largely
16 in oral conversations with Beverly Bassett-Schaffer,
17 and periodically, and that when she made me aware of
18 situations that I thought the governor should be made
19 aware of, that I would bring those matters to his
20 attention either by telling him orally what I had
21 learned from Schaffer or by sending him a brief
22 memo.

1 The fact that you had S&Ls that were in
2 trouble was certainly a matter that I felt he needed
3 to be aware of so I'm sure that I made him aware of
4 other similar situations.

5 Q Would it be safe to say that with respect
6 to other -- let's leave Madison aside, other state
7 regulated S&Ls, you only made the governor aware of
8 situations where there was a failure of an S&L?

9 A I don't believe that's what I said. I
10 think what I said or what I intended to say was that
11 there were institutions which had serious financial
12 problems and that a failure or a takeover seemed
13 likely.

14 Q Did you tell Governor Clinton about the
15 preferred stock plan that Madison was pursuing to
16 recapitalize?

17 A I don't have any recollection that I did.

18 Q Did you ever discuss with then Governor
19 Clinton any of the -- or the issue of Madison's need
20 to recapitalize?

21 A Well, it was obvious that was Madison's
22 problem.

1 Q Do you recall specific conversations?

2 A Well, to the extent we had conversations
3 about Madison and its status, all of that was
4 predicated on Madison's inability to meet required
5 capitalization standards, so theoretically any
6 conversation about Madison problems directly or
7 indirectly dealt with that.

8 Q Did the governor ask you to keep him
9 apprised of Madison's status?

10 A No more so than he asked me to keep him
11 apprised of any number of a hundred or a thousand
12 other issues that we dealt with in the five years I
13 was there.

14 Q But did he specifically ask you to keep him
15 apprised of Madison's status?

16 A I don't recall whether he ever said to me,
17 Bratton, keep me specifically apprised of Madison,
18 because that was my job, to keep him apprised of
19 problems that involved the agencies that I dealt
20 with. Having an S&L in danger of failing or being
21 taken over was certainly a problem, so, you know, he
22 may have said keep me apprised, he may not have. It

1 wouldn't have been necessary for him to do so. Or I
2 probably said I'll keep you posted.

3 Q The issue of Castle Water & Sewer was never
4 discussed with Governor Clinton subsequent to the
5 veto of the 1987 legislation until Mr. Randolph
6 contacted the governor's office?

7 A I don't recall there being any -- I think
8 the veto was the 6th or 7th of April or something
9 like that. I don't recall that there was any further
10 discussions of that piece of legislation until
11 Randolph raised concerns about it. There wouldn't
12 have been any reason for there to be further
13 discussions about it until somebody did raise
14 concerns about it.

15 MR. NAPPI: I have no further questions,
16 gentlemen, and I appreciate your indulgence. I just
17 wanted to try --

18 MR. BRENNER: And appreciate the witness's
19 indulgence as well.

20 MR. NAPPI: I appreciate your indulgence,
21 Mr. Bratton.

22 EXAMINATION

1 BY MR. PORTNOY:

2 Q I was all set to say good morning,
3 Mr. Bratton, but I suspect that would be
4 inappropriate at this point. I have relatively few
5 questions. My name is Jim Portnoy, sir, I'm counsel
6 for the Minority staff.

7 You've been asked at some length about HB
8 1780.

9 A Yes.

10 Q That bill was initiated in the legislature,
11 was it not?

12 A Yes.

13 Q Mr. Clinton had nothing to do with
14 initiating that legislation?

15 A That's correct.

16 Q Did anybody in the Administration, the
17 Clinton Administration, to your knowledge, have
18 anything to do with initiating that legislation?

19 A No.

20 Q With respect to the bill that was
21 introduced subsequently after 1780 was vetoed, that
22 bill also originated in the legislature?

1 A That's my recollection.

2 Q You didn't draft it?

3 A I don't believe I did.

4 Q And to your knowledge, nobody else in the
5 Clinton Administration drafted it?

6 A If anybody had drafted it, I would have
7 been the one to do it. I have no recollection that I
8 prepared it. And I'm relatively positive that I did
9 not do so. I would imagine it was prepared by
10 legislative counsel staff.

11 Q Would it be fair to say, then, sir, that
12 this entire enterprise was of legislative origin and
13 legislative initiative?

14 A I think that's an accurate assessment.

15 Q Turning back to HB 1780, your objections to
16 the bill were not substantive, were they, sir?

17 A The objections were based on my opinion
18 that it contravened a provision in the state
19 constitution that prohibited special local
20 legislation and therefore it was constitutionally
21 defective.

22 Q So the problem was that the bill chose the

1 wrong way to accomplish what it set out to do?

2 A I think that's accurate.

3 Q And you reviewed the bill and concluded
4 that it was constitutionally unfirm?

5 A That's correct.

6 Q Having so concluded, did you view yourself
7 as having any option except to recommend that the
8 governor veto it?

9 A It was a fairly rare circumstance that I
10 recommended that the governor sign a bill that we
11 thought was constitutionally defective.

12 Q And when you presented to Governor Clinton
13 the notion of vetoing the bill because it was
14 constitutionally defective, did he express any
15 difficulty with your proposed course of action?

16 A Not that I recall.

17 Q So this was all a fairly straightforward
18 and simple procedure?

19 A I have no recollection that it was anything
20 other than that up to the time it was vetoed.

21 Q There was also a fair bit of discussion
22 earlier today about conversations with Jim Guy

1 Tucker. Mr. Tucker is the current governor of
2 Arkansas, is he not?

3 A Yes, he is.

4 Q And before that he served in the United
5 States Congress?

6 A For one term, I believe.

7 Q And before that he was the Attorney General
8 of the state of Arkansas?

9 A For two terms.

10 Q And you, in fact, worked for Mr. Tucker
11 when he was Attorney General?

12 A For a little over two years.

13 Q Would it be fair to describe him as a
14 prominent public figure in Arkansas?

15 A Yes.

16 Q And he was a prominent public figure at the
17 time that the discussion regarding the veto of HB
18 1780 occurred?

19 A Yes.

20 Q Would it be your normal practice when you
21 were working for Governor Clinton to solicit or at
22 least listen to the views of prominent public figures

1 who expressed opinions about potential legislation?

2 A It was my responsibility to listen to
3 almost anybody who had any views on legislation that
4 they were interested in.

5 Q So there was nothing special about the fact
6 that Mr. Tucker was permitted to express his views to
7 you?

8 A That's a lot of what I spent my time doing
9 in legislative sessions is -- and before and after in
10 some cases is talking to people who were interested
11 in legislation, or pro or con.

12 Q The bill that followed the vetoed bill,
13 what came to be known as Act 37 of 1987, was
14 considered in a special session; correct?

15 A That's correct.

16 Q That special session was called, I believe
17 you testified, primarily to deal with an income tax
18 credit for institutions of higher learning?

19 A That's my recollection, yes.

20 Q The session wasn't called for the specific
21 reason of dealing with the bill that became Act 37;
22 is that correct?

1 A Absolutely was not called for the specific
 2 purpose of dealing with that. There may have been
 3 some other pressing issues other than the tax issue.
 4 I don't recall at this point, and I haven't reviewed
 5 the call for that session in years so I don't recall
 6 whether there may have been other pressing issues,
 7 but this legislation in our discussion today clearly
 8 was not a reason for calling the session.

9 Q In fact, a number of other legislative
 10 matters were considered during that special session,
 11 were there not?

12 A I don't know how many, but I'm sure there
 13 were several others that were considered. And it was
 14 fairly common practice if it was necessary to have a
 15 session, to allow members to include matters that
 16 were of particular interest to an individual member
 17 or group of members and had some pressing need and
 18 was relatively noncontroversial, kind of if we're
 19 going to be here anyway, why can't we deal with this
 20 issue argument.

21 Q And you viewed this legislation as
 22 relatively noncontroversial?

1 A As it was redrafted, yes.

2 Q To your recollection, did anybody contact
 3 you or anyone in the governor's office to oppose the
 4 legislation that became Act 37?

5 A I don't have any recollection of anyone
 6 contacting the office to express opposition to its
 7 passage.

8 Q For example, the Public Service Commission
 9 didn't oppose the revised regulation, or excuse me,
 10 revised legislation?

11 A Not according to a conversation I had with
 12 then commission chairman Robert Johnston.

13 Q The implication has been raised, sir, that
 14 this legislation was enacted somehow as a favor or as
 15 a political payoff.

16 MR. NAPPI: I think I'm going to object.
 17 The record will speak for itself. Let's not draw any
 18 conclusions as to implications that can be drawn from
 19 the record.

20 BY MR. PORTNOY:

21 Q Let me state it for you simple, sir. Do
 22 you have any reason to believe that any action that

1 you or anyone else in the Clinton Administration took
2 with respect to this legislation was due to political
3 favoritism?

4 A No.

5 MR. NAPPI: I think I have to object to the
6 use of the term "political favoritism." Can you
7 explain what you mean?

8 MR. COLE: I think we can note your
9 objection for the record and go on. He answered the
10 question.

11 BY MR. PORTNOY:

12 Q The Majority asked you a number of
13 questions regarding Madison Guaranty.

14 A Yes.

15 Q And various transactions that may or may
16 not have had an impact on Madison Guaranty. Was
17 there anything unique about the way that you or
18 others in the Clinton Administration dealt with
19 Madison Guaranty?

20 A No.

21 Q Your conversations with Ms. Schaffer were
22 normal conversations that you would have with respect

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1 to any institution?

2 A That's correct.

3 Q And your conversations with Mr. Clinton
4 were of the same nature?

5 A That's correct.

6 Q You had similar conversations with
7 Ms. Schaffer regarding other banks; is that correct?

8 A Other S&Ls, other enforcement activities
9 that the department was undertaking with regard to
10 other entities that they regulated.

11 Q And you had similar conversations with
12 Mr. Clinton with respect to other institutions?

13 A Yes.

14 Q Did you ever ask Ms. Schaffer to take or
15 forbear from taking any specific regulatory action
16 with respect to Madison Guaranty?

17 A No, I did not.

18 Q Did anyone ever ask you to direct
19 Ms. Schaffer to take or forbear from taking any
20 regulatory action with respect to Madison Guaranty?

21 A No.

22 Q Did Mr. Clinton ask you to?

1 A No.

2 Q Mrs. Clinton?

3 A No.

4 Q Ms. Wright?

5 A No.

6 MR. NAPPI: Could we clarify one thing for
7 the record? Did Ms. Schaffer ever inform you of
8 specific regulatory action that her entity was going
9 to take with respect to Madison?

10 THE WITNESS: It is my recollection that
11 her general stance regarding Madison and two, perhaps
12 three other similarly, somewhat similarly situated
13 institutions, was that the state securities
14 department's hands were basically tied in terms of
15 enforcing any state sanctions because until the
16 Federal Home Loan Bank Board and the Federal Savings
17 and Loan Insurance Corporation were ready to move and
18 pay off the depositors, that state action without the
19 cooperation of the federal regulators could leave the
20 depositors at risk. And so it was the state
21 securities department was the tail wagged by the dog
22 of the federal regulators, and that was pretty much

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1 her stance regarding Madison and two or three other
2 institutions that were similarly situated.

3 BY MR. PORTNOY:

4 Q Whatever Ms. Schaffer's regulatory views
5 were, sir, they were her own, though; is that
6 correct? Nobody instructed her to take a particular
7 regulatory position with respect to Madison Guaranty?

8 A I did not, and I'm aware of no one else in
9 the governor's office who did so.

10 MR. NAPPI: You're not aware or --

11 THE WITNESS: I am not aware that anyone
12 else in the governor's office instructed her to
13 forbear from taking any action.

14 BY MR. PORTNOY:

15 Q Finally, sir, you were asked about the
16 leasing by the Arkansas housing authority of office
17 space in a building owned by Madison Guaranty?

18 A Yes.

19 Q To the extent that you were involved in the
20 decision to -- strike that.

21 The decision to lease that space was not
22 made in the governor's office, was it, sir?

1 A The decision was made by Paul Mallard, I
2 assume from the recommendation of leasing
3 specialists, state building services.

4 Q But it was brought to the attention of the
5 governor's office by either Mr. Mallard or Mr. Epes?

6 A Yes. I think in essence it's fair to say
7 that Mr. Epes was appealing that decision.

8 Q Did anyone instruct you to look favorably
9 upon the decision to lease that space because it was
10 owned by Madison Guaranty?

11 A I certainly don't have any recollection of
12 that occurring.

13 Q Are you aware of anyone taking any action
14 at all with respect to the leasing of that space that
15 was designed to benefit Madison Guaranty?

16 A No, I'm not.

17 MR. PORTNOY: That's all I have. Thank
18 you, sir.

19 MR. COLE: Off the record, unless you guys
20 have additional questions on this topic. Let's go

21 off the record before we turn to the topic

22 Mr. O'Callaghan is interested in.

1 MR. NAPPI: I think I just have one more
2 question that was borne out by the redirect.

3 EXAMINATION

4 BY MR. NAPPI:

5 Q Did Governor Clinton ask you -- and again
6 I'm directing you to the public, the utility
7 deregulation legislation of 1987 -- did Governor
8 Clinton ask you to contact anyone else other than
9 Mr. Tucker?

10 A Not that I recall.

11 Q And when you --

12 A I probably talked to Representative Wilson
13 at some point.

14 Q But I mean a private citizen, because it is
15 fair to say that when you contacted Jim Guy Tucker,
16 you were contacting him in his role as a businessman
17 and private citizen?

18 A It was my impression that he was doing some
19 legal work that was related to the legislation. I
20 didn't specifically explore exactly who his client
21 was, but it was my impression that I was talking to
22 him in his capacity as a lawyer for a client who --

1 Q Fair enough. You were not talking to him
2 as a prominent Arkansas public figure who might have
3 public policy views that he would want to express to
4 you?

5 A I was talking with him the same way I'd
6 talk to any lawyer who wanted to call up and talk
7 about a piece of legislation that was under
8 consideration, or any nonlawyer, for that matter.

9 MR. PORTNOY: Frequently a better source.

10 MR. NAPPI: There was probably bipartisan
11 unanimity on that.

12 BY MR. NAPPI:

13 Q Were you involved in any meetings or
14 contacts regarding a lease between the Public Service
15 Commission and Madison during your tenure with the
16 governor's office?

17 A Between the Public Service Commission and
18 Madison?

19 Q Yes.

20 A Not that I recall.

21 MR. NAPPI: I don't have any further
22 questions.

1 MR. PORTNOY: I would like the record to
2 reflect that we've completed the first portion of
3 this deposition and that the remaining portion will
4 be conducted by Mr. O'Callaghan and Mr. Cole.

5 MR. COLE: Off the record.
6 (Discussion off the record.)

7 EXAMINATION

8 BY MR. O'CALLAGHAN:

9 Q Okay. We're back on the record. What I
10 would like to show you for identification purposes
11 are a bunch of documents that have been produced to
12 the Committee that contain handwritten notations. I
13 will identify documents by Bates stamp number and
14 pages and ask you if you recognize the writing on the
15 documents, if you've seen the documents before. And
16 this is to help facilitate an anticipated phone
17 deposition which will be a continuation of the
18 deposition that took place today.

19 The first document is a one-page document
20 Bates stamped DKS N 017863. It appears to be a copy
21 of a piece of stationery with the heading "John S.
22 Selig." And the document reads "Sam, this draft is

1 sufficient, there is no need for the other one I
2 spoke to you about," and it appears to be signed,
3 "John." Have you seen this document before?

4 A I don't recall specifically having seen it.

5 Q Do you recognize the handwriting on this
6 document?

7 A I don't recognize the handwriting. I know
8 who John Selig is.

9 Q Did you have any dealings with Mr. Selig at
10 any time?

11 A I may have at some point. I don't recall
12 specifically.

13 Q Did you have any dealings, to help refresh
14 your recollection, with Mr. Selig in connection with
15 drafting of legislation in connection with financing
16 for a police radio network?

17 A I dealt with a member of Mr. Selig's firm,
18 primarily, and I may have had some conversations with
19 John Selig.

20 Q In looking at the document, do you recall
21 having conversations with him about drafts of any
22 documents or legislation?

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1 A I don't specifically recall talking with
2 John Selig. It is entirely possible. I do know I
3 had a number of conversations with him and another
4 member of his firm about that legislation.

5 Q Did you exchange documents with them?

6 A I don't know that we exchanged documents.
7 I think they prepared some recommended legislation.

8 Q Was that in connection with the police
9 radio network?

10 A Yes.

11 Q Okay, thanks. The next document is another
12 one-page document Bates stamped DKS N 018228, and it
13 is a routing slip from the state of Arkansas, office
14 of the governor, dated 3-16, to Mike from Sam.

15 A That's my handwriting.

16 Q So you've seen this document before, I take
17 it?

18 A I assume, it's my handwriting. I don't
19 recall it, but it is my handwriting.

20 Q Your remark says "hope for discussion after
21 session. Generally agree with your analysis." Do
22 you know who this document was directed toward?

1 A No.

2 Q Was there anyone named Mike who you dealt
3 with in connection with the police radio network
4 legislation?

5 A I think that Mike Gaines may have had some
6 involvement with that issue. Gaines for a while was
7 a liaison with some of the public safety agencies.
8 It is possible that that is directed to Mike Gaines,
9 but I have no recollection at all what the issue or
10 what analysis I agreed with was.

11 Q Did you deal with him in connection with
12 the police radio network?

13 A I don't think Mike had much involvement
14 with that. He may have had some involvement
15 initially.

16 Q The next document, it's another one-page
17 document, it's a memorandum sheet Bates stamps DKS
18 018191, and it appears to be routed to Governor
19 Clinton/Betsey Wright. Date is 5-1-85, from Mike
20 Gaines, subject: ASP communications is the title
21 written in handwritten notes. My first question is,
22 have you seen this document before?

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1 A I don't recall whether I've ever seen it
2 before or not.

3 Q Do you know what ASP communications refers
4 to?

5 A That would be -- I assume Arkansas state
6 police communications contract.

7 Q Do you recognize the writing in the heading
8 portion for the to, from and subject and date?

9 A No, I don't recognize that handwriting.

10 Q Have you ever seen Mike Gaines's
11 handwriting before?

12 A Sure.

13 Q Just to help refresh, does that appear to
14 be Mike Gaines's handwriting?

15 A I don't recall whether it's Mike's
16 handwriting or not.

17 Q For the record, to be clear, there appears
18 to be three different, that I can identify, styles of
19 handwriting on the page. Towards the upper right
20 hand portion of this document, there's some
21 handwriting, some thicker pen that appears. Do you
22 recognize the handwriting that appears there?

1 A Yes, I do.

2 Q Whose handwriting is that?

3 A Governor Clinton's.

4 Q Now, toward the bottom of the page
5 underneath the Bates stamp, there's some more
6 handwritten notes that appear there. Do you
7 recognize the handwriting that appears there?

8 A Yes.

9 Q Whose handwriting is that?

10 A Betsey Wright.

11 Q The next document is a multipage document
12 Bates stamps DKS N 018262 through 18278. And the
13 first page of it is entitled a bill, it says an act
14 to enact authorize the opposition, installation and
15 authorization of a statewide radio communication.
16 Authorizing of construction, equipping and
17 authorization and building of other facilities for
18 the purpose of housing inmates in the custody of
19 department of correction. For the purpose of
20 construction, equipping and operation of facilities
21 for the expansion of prison, agriculture and industry
22 programs. Authorizing the issuance of the revenue

1 bonds for the financing thereof, providing for the
2 payment and security of such bonds, including the
3 pledging of various fees and further purposes.

4 Have you seen this document before? Take a
5 moment to review it.

6 (Witness reviewed the document.)

7 A I don't know that I have -- I can't say
8 that I recall specifically having seen this. It
9 appears to be very similar to legislation that was
10 passed to fund the acquisition of the state police
11 radio communication system. I'm not sure this is the
12 precise draft that passed, but it certainly appears
13 to be similar to legislation that was passed for that
14 purpose.

15 Q I would like to direct your attention to
16 the second page of the document. There are a couple
17 of handwritten notations that appear there. The one
18 in the top left corner is tough to read. It looks
19 like it says "ADFA," and I can't make out the second
20 word, but then there's, in the third paragraph, same
21 handwriting appears, there's some scratched-out
22 words, "development finance authority," and above

1 that handwritten is "housing development agency."
2 And then further down from that sentence
3 there's another "authority" crossed out and above
4 that handwritten notation which says "agency," and
5 then the next line has a similar cross-out, of
6 "development finance authority" which has
7 handwritten notes over that saying "housing
8 development agency." Do you recognize that
9 handwriting?

10 A No, I don't.

11 Q After looking at this portion of this
12 document, does that refresh your recollection as to
13 what this document is?

14 A No.

15 Q Whether it's an earlier iteration of a
16 final bill that was proposed?

17 A It may well be. The Arkansas housing
18 development agency existed prior to the 1985 session
19 of the legislation -- session of the legislature.
20 Legislation was passed in '85 session that
21 restructured the housing agency, gave it barter
22 authority and changed its name to the Arkansas

1 Development Finance Authority.

2 So what it may look like here is that
3 someone was changing the language back to describe
4 the agency that currently existed versus one that was
5 perhaps to be created at some later point in time, so
6 it is possible that this was an early draft of the
7 bill that provided for a funding mechanism for the
8 state police radio system.

9 Q Okay, thank you. The next document again
10 is a one-page document Bates stamps DKS N 027258. And
11 it appears to be a note on stationery for Beverly
12 Bassett, securities commissioner. And there's a note
13 that reads -- it's dated 5-28-86 and the note reads
14 "Sam, enclosed for your information is a note we
15 received today from Bob McHenry, one of the attorneys
16 for David Collins," and then it's signed "BB." Have
17 you seen this document before?

18 A I don't specifically recall having seen
19 it. I probably did.

20 Q Why do you say you probably did?

21 A Well, that appears to be Beverly Bassett's
22 handwriting, or certainly looks like it, and it's

1 addressed to Sam. I was the liaison in the
2 governor's office with the securities department.

3 Q Okay. I would like to show you another
4 document Bates stamped DKSJN 027260, and again it's on
5 similar stationery, Beverly Bassett, securities
6 commissioner, dated it appears to be 5-20-86, again
7 addressed to "Sam," says "FYI, by the way, the
8 complaint does not allege what is stated in paragraph
9 1 of the Gazette article. They must be referring to
10 paragraph 14 of the complaint. The SEC and NASD did
11 file complaints on this matter back in 1983. No
12 complaint was ever filed by the Arkansas Securities
13 Department."

14 Have you seen this document before?

15 A I don't specifically recall having seen it,
16 but again, I probably did. It appears to be from
17 Beverly Bassett and addressed to Sam, and I was the
18 person in the governor's office with liaison
19 responsibilities with the securities department, but
20 I don't have specific recollection of it at this
21 point.

22 Q Coming to the final document of the

1 handwritten notes. Again, it's a one-page document,
2 Bates stamp of DKSJN 027472, and it appears to be a
3 stationery or envelope on Lassiter & Company
4 Investment Bankers stationery. There are handwritten
5 notes, both on what appears to have been photostatic
6 and also on the border of the paper that it was
7 photostatted on. And there's a number of different
8 handwritten notations on the document.

9 And first I would like to direct your
10 attention to the top left corner, two asterisks and
11 then some notations, ask you if you recognize that
12 handwriting. Actually I'm sorry, before I have you
13 answer that, have you seen this document before?

14 A I don't recall ever having seen it before.

15 Q Now if you could tell me if you recognize
16 the handwriting in the upper left-hand corner.

17 A I'm not sure.

18 Q And how about the -- on the upper
19 right-hand corner there's some handwritten notes with
20 a 1 and 2 next to them. One appears to say "MS" and
21 the other says "CG," and then "file, Rex." Do you
22 recognize that handwriting?

1 A It appears to be Betsey Wright's
2 handwriting.

3 Q And then this might be difficult to
4 describe, but underneath the latter and company mast
5 head there is some additional notes, and ask you if
6 you recognize the handwriting that appears directly
7 under that.

8 A Yes, I do.

9 Q Whose handwriting is that?

10 A Then Governor Bill Clinton's.

11 Q Then there's one last bit of handwriting
12 which appears towards the lower left-hand corner,
13 which is in -- once again, in a thicker marker. Do
14 you recognize the handwriting that appears there?

15 A No, I don't.

16 MR. O'CALLAGHAN: Well, that concludes
17 the --

18 MR. COLE: Is there anything else you want
19 to try to do on the record before we adjourn to
20 resume by telephone at some later time?

21 MR. O'CALLAGHAN: I think at this point it
22 probably would be more prudent just to do it all at

1 the same time and keep some consistency in it and not
2 to break up the flow. So I guess on the record we'll
3 say that we will reschedule for another time.

4 MR. COLE: At a time that's mutually
5 agreeable between the witness and the staff here I
6 think, probably as soon as possible, perhaps next
7 week if that could be worked out, but why don't we
8 discuss that off the record, if not next week, as
9 soon thereafter as possible.

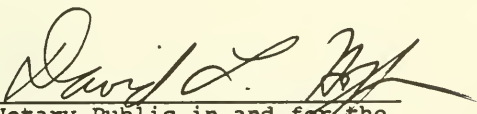
10 MR. O'CALLAGHAN: That's agreeable.
11 (Whereupon, at 5:47 p.m., the deposition
12 was adjourned, to reconvene at a later date.)
13
14

15 SAM I. BRATTON, JR.
16
17
18
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

255

I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



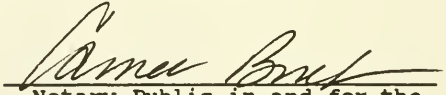
Notary Public in and for the
District of Columbia

My Commission Expires JUNE 30, 2000

CERTIFICATE OF NOTARY PUBLIC & REPORTER

256

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF RONALD M. CLARK
IN RE: S. RES. 120**

FRIDAY, JANUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of RONALD M. CLARK, called for examination pursuant to notice of deposition, at 10:10 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALDEN L. ATKINS, Esq.
Vinson & Elkins, L.L.P.
The Willard Office Building
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1008
On behalf of the Deponent.

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Clark Exhibits 1 and 2	141, 824

P R O C E E D I N G S

MR. GIUFFRA: On the record.

Good morning, Mr. Clark. My name is Robert Giuffra. I am the chief counsel of the Senate Banking Committee. To my left is Alice Fisher, who is deputy special counsel to the Majority of the Special Committee on Whitewater; and to Alice's left is Neal Kravitz, who is principal deputy special counsel for the Minority.

This is a deposition that is being conducted pursuant to Senate Resolution 120, a copy of which I have here. I assume you and your counsel have seen Senate Resolution 120.

THE WITNESS: I believe so, yes.

MR. GIUFFRA: This resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

Section 1(b)(3) of the Senate Resolution

authorizes investigation and public hearings into several issues that will be the focus of today's deposition. These would include the operations, solvency and regulation of Madison Guaranty; the activities, investments and tax liability of Whitewater Development Corporation; the policies and practices of the RTC and federal banking agencies regarding legal representation of such agencies with regard to Madison; and the handling by the RTC, the Office of Thrift Supervision, the FDIC and FSLIC, the Federal Savings and Loan Insurance Corporation, of civil and administrative actions against parties regarding Madison Guaranty Savings & Loan Association.

This deposition is being conducted in advance of public hearings which will be starting this month. The procedure for the deposition is set forth within the resolution. The Majority will first ask you a series of questions, and then Mr. Kravitz for the Minority will ask you a series of questions.

You will be testifying under oath. You have a right to be represented by counsel, and I see

1 that you have chosen to have Mr. Alden Atkins
2 represent you.

3 If Mr. Atkins could state an appearance for
4 the record.

5 MR. ATKINS: I am Alden Atkins from Vinson
6 & Elkins, representing Mr. Clark.

7 MR. GIUFFRA: The procedure with regard to
8 depositions is as follows: Set forth in Section
9 5(b)(7) of the resolution, among other things,
10 objections by witnesses to the form of the question
11 will be noted for the record. If a witness objects
12 to a question or refuses to answer on the basis of
13 relevance or privilege, the special committee staff
14 may proceed with the deposition, or may, at that time
15 or any subsequent time, seek a ruling on the
16 objection from the Chairman.

17 If at any point today you don't understand
18 the question, let me know. If anything is confusing
19 I will rephrase it, or Mr. Kravitz can rephrase his
20 questions. If you need a break at any point, again,
21 let us know and we will take a break.

22 The court reporter will prepare a record of

1 the questions and answers. This deposition will be
2 treated as something called committee confidential
3 until the commencement of the hearings, meaning it
4 will not be disseminated to the public and it will be
5 kept in a restricted room here, where access is
6 limited.

7 Prior to the hearings you will receive a
8 letter from the committee inviting you to come to the
9 Senate to review your transcript, as we discussed
10 prior to going on the record. You can look at your
11 transcript at the Senate as soon as it becomes
12 available to us.

13 Four days in advance of the hearings you
14 will have an opportunity to actually get a copy of
15 your transcript, either to be picked up here or we
16 will send it to you.

17 Do you have any further questions?

18 THE WITNESS: No.

19 MR. GIUFFRA: Mr. Atkins.

20 MR. ATKINS: No.

21 MR. GIUFFRA: Please swear the witness.
22 Whereupon,

1 RONALD M. CLARK

2 was called as a witness and, having first been duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. GIUFFRA:

6 Q Mr. Clark, would you please state your name
7 for the record?

8 A Ronald M. Clark.

9 Q That's C-l-a-r-k?

10 A Yes.

11
12
13 Q What is your present position?

14 A I am an attorney with the Rose Law Firm in
15 Little Rock, Arkansas.

16 Q Are you the managing partner of the Rose
17 Law Firm?

18 A I am the chief operating officer.

19 Q Is there a chief executive officer of the
20 firm?

21 A That would be me. We are a professional
22 association and not a partnership, so I would be the

1 chief executive officer.

2 MR. GIUFFRA: Could we take a break just
3 for a second.

4 THE WITNESS: Okay.

5 (Discussion off the record.)

6 (The reporter read the record as requested.)

7 BY MR. GIUFFRA:

8 Q Could you just briefly describe for the
9 record the management structure of the Rose Law Firm?

10 A Sure.

11 MR. KRAVITZ: Do you mean at this time or
12 back in the 1980s?

13 MR. GIUFFRA: At this time.

14 THE WITNESS: Sort of in lines of
15 authority, ultimately, I guess, the board of
16 directors which consists of all senior members of the
17 firm; under that, there is the executive committee of
18 which the chief operating officer is the chairman of
19 that committee. And so -- it is the board of
20 directors -- the executive committee is considered a
21 subset of the board of directors, and then there is
22 the chief operating officer, which is me.

- 1 Q How long have you been at the Rose Law
2 Firm?
3 A I have been there since May of 1980.
4 Q When did you graduate from law school?
5 A May of 1980.
6 Q Where did you go to law school?
7 A University of Arkansas.
8 Q So your whole career has been at the Rose
9 Law Firm?
10 A Yes.
11 Q What is your area of specialty at the Rose
12 Law Firm?
13 A I am in taxation, mostly corporate and
14 partnership transactions.
15 Q Could you briefly, if you can recall, state
16 for the record who the managing partner of the Rose
17 Law Firm was, if there was one, starting in 1980?
18 A In 1980 through -- 1980 through
19 approximately 1987, I want to say, it would have
20 been -- let me back up.
21 1980 through approximately 1985, it would
22 have been Joe Giroir.
-

- 1 Q Spell the last name.
2 A G-i-r-o-i-r, C. Joseph Giroir. At some
3 point during that time, we changed titles and we
4 didn't actually have a chairman/chief -- Joe at that
5 point was called chairman. We did not have the title
6 of chief operating officer.
7 At some point in the mid-'80s, we changed
8 to chairman of the executive committee, which is sort
9 of the chief operating officer of the firm. And in
10 the period from '85 to -- through '88, I couldn't
11 tell you exactly who -- Joe was part of the time.
12 Vince Foster would have been in that position part of
13 the time, and Web Hubbell would have been in that
14 position part of the time. And I can't really
15 tell --
16 Q This is sometime between 1985 and 1988?
17 A Right.
18 Q You say the three of them at various points
19 were the chief operating officer?
20 A Yes, I think it went Joe, Vince and then
21 Web. I think that's the chronology.
22 Q '85 to '88?

1 A Sometime in '88 Bill Kennedy became what,
2 at that point, was called the chief operating
3 officer, and he was chief operating officer until he
4 left in February of '93.

5 Q What were the titles between '85 and '88,
6 not chief operating officer?

7 A I think they were called chairman of the
8 executive committee.

9 Q Do you know why Mr. Giroir was replaced as
10 chairman in '85?

11 A Well, again, it's somewhat complicated. I
12 can't tell -- I could tell you and I would have to go
13 back and look, but I cannot recall off the top of my
14 head when exactly -- at some point he continued to be
15 chairman while we had a separate chairman of the
16 executive committee. But at that point it was sort
17 of honorary, and my recollection is -- now, I became
18 a partner in February of '85 so some of this would
19 have been before I was a partner.

20 My recollection is there was just a normal
21 chain, I mean Joe had been managing partner, to use
22 that phrase, for a number of years. And we changed

1 sort of the management structure going to the
2 executive committee type set up, and Joe became
3 chairman while someone else became chairman of the
4 executive committee, and then we just selected
5 someone else.

6 So I am not sure there was any -- I don't
7 recall any particular reason why there was -- why Joe
8 was no longer chairman.

9 Q Was there any dissatisfaction on the part
10 of some members of the firm with regard to how
11 Mr. Giroir was managing the firm?

12 A At some point during that period of time,
13 there was some dissatisfaction, because Joe had
14 become involved in a lot of outside activities. He
15 had invested in a number of banks and was spending a
16 lot of time on personal business versus firm
17 business.

18 But I can't really say there was -- I don't
19 recall any big dissatisfaction with how he was
20 actually managing the firm.

21 Q Do you have any understanding as to whether
22 Mrs. Clinton had any role in the replacement of

1 Mr. Giroir as chairman of the firm?

2 A No.

3 Q Web Hubbell?

4 A Well, again -- as far as any role, I am not
5 sure what you mean by "any role." I can remember
6 discussions during that time, about how the
7 management of the firm was to be restructured to
8 where we would have an executive committee. And we
9 had firm meetings, which I assume Mrs. Clinton and
10 Web attended, and I would -- and voted but I don't
11 know of any motivating -- they weren't pushing
12 anybody as far as I recall. There could have been,
13 but again, I was a new partner, so --

14 Q Is Mr. Giroir still at the firm?

15 A No.

16 Q Do you know when he left the firm?

17 A I believe he left in approximately March of
18 1988.

19 Q Do you know why he left?

20 A He went into practice by himself -- well,
21 actually took some people with him. He just split
22 off from the firm.

1 Q Did Mr. Giroir have any business dealings
2 either as a lawyer at the Rose Firm or otherwise with
3 Madison Guaranty Savings & Loan?

4 A Not to my knowledge.

5 Q Now, are you aware that the Whitewater
6 special committee served a subpoena on the Rose Law
7 Firm?

8 A Yes.

9 Q And have you reviewed that subpoena?

10 A I have.

11 Q And have you taken steps to see to it that
12 the Rose Law Firm complied with that subpoena?

13 A I have.

14 Q And are you aware of -- strike that.

15 What steps have either you or your counsel
16 taken to comply with the Committee's subpoena?

17 A Well, most of the documents -- I don't know
18 of any documents that were on the subpoena that have
19 not at some point or other been produced to either
20 the independent counsel or the RTC or the FDIC. So
21 counsel has some pretty significant indexes of those
22 documents, and so when we got that subpoena, I think

1 they went back and compared those indexes and tried
2 to pull the documents that would have been responsive
3 to those subpoenas.

4 Q As far as you know, all responsive
5 documents in the care, custody and control of the
6 Rose Law Firm have been produced to the Committee?

7 MR. ATKINS: Let me interrupt, please. You
8 recall you and I had a conversation about the scope
9 of our production, and what you and I agreed that we
10 would produce was narrower than what was actually set
11 forth in the subpoena.

12 MR. GIUFFRA: That is correct. But with
13 regard to the documents that you and I agreed, you
14 are not under oath --

15 BY MR. GIUFFRA:

16 Q Mr. Clark, as far as you know, the
17 documents that the Senate has asked for, both in the
18 subpoena and as amended by any side agreement between
19 myself and Mr. Atkins, those documents have been
20 turned over?

21 A Yes, unless there is anything else we need
22 to produce this morning.

1 MR. KRAVITZ: Can we have someone put on
2 the record what this side agreement was which -- I
3 know I wasn't a party to it. I don't know if anyone
4 from the Democratic staff was.

5 MR. ATKINS: It was set forth in a letter I
6 sent to Mr. Giuffra, and I believe I sent a copy to
7 Lance Cole, I wish I could --

8 MR. GIUFFRA: These are the Democratic
9 staff.

10 MR. ATKINS: The date was approximately
11 October 29, although I can't recall for sure.

12 MR. KRAVITZ: Can you summarize what it --
13 how it limited the subpoena?

14 MR. ATKINS: Sure. My recollection is that
15 it limited the subpoena to documents relating to
16 Madison Guaranty, to billing invoices from the Frost
17 litigation, to documents relating to allegations of
18 shredding documents relating to Whitewater
19 Development Company. I believe; that's my
20 recollection offhand.

21 BY MR. GIUFFRA:

22 Q Mr. Clark, prior to today's deposition, did

1 you speak with anyone other than your counsel about
2 the substance of your testimony here today?

3 A No.

4 Q Did you speak to Mr. Kennedy about the fact
5 of your being deposed?

6 A No -- I did -- no, I sent an E-mail out to
7 the partners in the firm, with, I think, a copy to
8 Bill, telling them I was being deposed but I did not
9 have any personal conversations with him.

10 Q Mr. Clark, when did you first learn that
11 the Resolution Trust Corporation was conducting any
12 sort of investigation related to Madison Guaranty
13 Savings & Loan?

14 A It would have been in the spring of 1994,
15 February or March. The FDIC had issued their report
16 indicating that they had found no conflicts in our
17 representation of the Frost -- in the Frost
18 litigation. And I think at that point Senator
19 D'Amato, on the floor of the Senate, expressed some
20 disappointment with the report and asked that there
21 be an investigation conducted.

22 So at that point I assumed there would be

1 an investigation, but that we had not received any
2 formal notice of such.

3 Q At that point in time, did you, or did you
4 instruct your counsel, to take any action with regard
5 to the preservation of documents at the Rose Law
6 Firm?

7 A Well, I think -- I think long before that
8 we had already started that process.

9 Q Well, when did you first take steps to
10 preserve documents related to Rose's representation
11 of Madison?

12 A Probably -- it would have been, as far as
13 preserving documents, it would have been -- we did
14 some accumulation of documents in late 1993, and in
15 January of 1994, we received the first subpoena.

16 Q Do you remember exactly the date?

17 A I want to say January 13th, but I am not
18 exactly sure. And that subpoena was subsequently
19 withdrawn the very next day.

20 Q That subpoena was from whom?

21 A That was from Mr. Mackay, I believe was his
22 name, who was a lawyer for the government in Chicago.

1 MR. ATKINS: It was a grand jury subpoena.

2 BY MR. GIUFFRA:

3 Q Grand jury subpoena from the Justice
4 Department?

5 A Right, before Mr. Fiske was appointed.

6 Q That was withdrawn the next day and you got
7 a subsequent subpoena. Do you remember when the date
8 of that subpoena was?

9 A That would have been in -- the first week
10 of February; is that right?

11 MR. ATKINS: Yes.

12 THE WITNESS: February 9th I want to say,
13 maybe.

14 BY MR. GIUFFRA:

15 Q What steps do you recall taking in late
16 1993 with regard to collecting or retaining documents
17 related to Rose's representation of Madison?

18 A In November of 1993, we started getting
19 various press calls, requesting answers to questions
20 concerning the Madison matter. I had absolutely no
21 knowledge whatsoever of the Madison, who had done the
22 work, what type of work, and of course the calls were

20

1 coming to me.

2 And so at that point, we took several
3 steps, or I took several steps, trying to find out
4 information, just to discover what exactly had been
5 done, who had done what, that sort of thing. So we
6 did a preliminary search, basically just in our main
7 building, of documents. I asked for a quick search
8 of our accounting records for fee statements, trying
9 to find out who had done the work, and we were unable
10 to locate those. And so I then asked for a summary
11 of our fee credit reports.

12 Q Let me ask a question about the fee
13 statements.

14 A Okay.

15 Q And let me preface the question by saying
16 this is going to be the tricky part of this. We will
17 have to try to deal with the earlier period and the
18 present period.

19 Let's focus on the period 1993, 1994.

20 A Okay.

21 Q What was Rose's policy with regard to the
22 retention of fee statements and billing materials?

1 A When a bill is created, it is created in
2 triplicate; it is typed on a computer, printed out,
3 and there's three copies of it. The original copy,
4 top copy, obviously is sent to the client. One of
5 the underlying copies is typically attached to the
6 billing memorandum, which is the computer generated
7 record of time, which is what the attorney marks up
8 to create the bill.

9 And that goes downstairs and sits in
10 accounting. Now, in the accounts receivable file.
11 And it will stay in that file until it is paid, at
12 which point it moves over into the accounts paid
13 file. We are on a fiscal year, January -- ending
14 January 31, so any one year's bills are maintained
15 down in a file in the accounting in alphabetical
16 order by client.

17 At the end of that fiscal year, then they
18 are moved somewhere, typically they are -- that set
19 of files is removed to remote storage. And they will
20 stay in remote storage until ultimately they are
21 discarded or destroyed.

22 Generally speaking, we tried to keep our

22

1 accounting records semi up to date. We tried to get
2 these things moved out of remote every three or four
3 years. We are not particularly successful in that.
4 Sometimes they would sit over there for five years,
5 sometimes they would sit over there for two years.

6 Q Let's -- let me see if I can just sort of
7 unpack what you said.

8 The bill is going to be sent to the client,
9 and you create three copies of the same document?

10 A Right.

11 Q One copy obviously gets sent to the client,
12 and the firm keeps two copies?

13 A Right.

14 Q One copy goes with the billing memo to the
15 accounts receivable department?

16 A That's correct.

17 Q And it will stay in the accounts receivable
18 department for about a year?

19 A Assuming it is paid within the fiscal year,
20 it will stay in there until January 31.

21 Q So that if you sent out a bill on December
22 31, 1995, and it was paid on January 15, 1996, that

1 bill would be sent to your remote storage location by
2 January 31, 1996, theoretically?

3 A Well, really not even theoretically. What
4 happens, January 31 is the end of our fiscal year; we
5 close our accounts. So sometime after the end of the
6 fiscal year our accounting department would take the
7 paid invoices and typically move them to remote. It
8 may not occur until April that they actually get
9 around to doing it, but at some point they would move
10 those out.

11 Q Where is this remote storage location?

12 A It's just in the warehouse in Little Rock,
13 about five minutes, 10 minutes from the firm.

14 Q What is the name of the warehouse?

15 A I don't know if it has a name.

16 Q Is it run and operated by the Rose Law
17 Firm?

18 A Yes. It is one of these strip type
19 warehouses and we have -- we rent a small piece of
20 it.

21 Q Would I be correct, this bill with the
22 billing memo would stay at the remote storage for

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1 approximately three years?

2 A For approximately three years, that's
3 right.

4 Q And then it would be destroyed?

5 A Then we would attempt to destroy it, yes.

6 Q What happens to the third copy?

7 A The third copy, theoretically, the third
8 copy could go anywhere the attorney wanted it. I
9 would say, generally speaking, it is the practice of
10 most of our attorneys that that third copy would be
11 attached to the letter that you normally would send
12 to the client saying please find enclosed your bill.
13 That third copy would be attached to the letter and
14 maintained in the client files.

15 Q Now, I want to focus my attention, at least
16 initially, to this period 1993/94, and to extent
17 there are any differences in the practices between
18 '93 and '94 and the present, you can add that
19 information --

20 A Okay.

21 Q -- and then we will go back to the earlier
22 period.

1 Where are client files normally maintained,
2 were they maintained in '93, '94?

3 A Active client files would have been
4 maintained in our primary work building in Little
5 Rock. Now, it's always been our practice that when
6 an individual attorney -- obviously we have limited
7 space in our main building. When an individual
8 attorney concludes a matter, it is within that
9 attorney's discretion to close those files and
10 transfer them to remote storage, have them destroyed,
11 give them to the client, whatever is the proper way
12 to handle those files. And that's pretty much always
13 been the system.

14 Q Are the client files maintained with the
15 individual attorneys, or is there a special location
16 in the firm where you store files?

17 A In all sections, other than our securities
18 section, individual attorneys maintain their own
19 files. The securities section, for some of their
20 files, have a common -- all attorneys in the
21 securities section go in a common area, but for
22 everybody else, I maintain my files, someone else

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1 maintains their files.

2 Q Was that the practice throughout the '80s,
3 as far as you know?

4 A Yes.

5 Q Would those files have been maintained by
6 the billing partner with regard to a file, or by each
7 of the attorneys working on the matter?

8 A Each of the attorneys working on the matter
9 would maintain their own files.

10 MR. KRAVITZ: Bob, can I ask one clarifying
11 question?

12 MR. GIUFFRA: Sure.

13 MR. KRAVITZ: You may have already
14 testified to this but so I am clear, that process of
15 billing you described a few minutes ago with three
16 different copies, what time period were you talking
17 about?

18 THE WITNESS: That's always been the case
19 since I have been with the firm.

20 MR. GIUFFRA: Save me some questions,
21 Neal. I was going to get back to that.

22 BY MR. GIUFFRA:

1 Q What was the firm's practice in 1993, 1994
2 with regard on the maintenance of client files?

3 A Pretty much the same. I mean, it was
4 within the discretion of the individual attorney as
5 to how to handle his or her files, so again on most
6 active matters, obviously you would keep those files
7 there in the building. Once a matter became
8 inactive, some of our attorneys were very good about
9 getting rid of the files and trying to keep things
10 neat and clean, and some would keep inactive files in
11 their office for years.

12 We made continuing efforts throughout this
13 whole period of trying to get rid of as much paper as
14 possible because our remote storage has been full for
15 years.

16 Q This is in the period 1993, 1994?

17 A Right, even back in 1985 when there was
18 some concerted effort. The memo produced this
19 morning was evidence of some of the efforts we made
20 of trying to get rid of as much remote storage as we
21 could because it was crammed full of documents. But
22 it was generally in the discretion of the individual

1 attorneys as to what they would do with his or her
2 files.

3 Q This would have been the practice of the
4 firm throughout the '80s and goings into the '90s?

5 A Yes, right.

6 Q I know Neal asked you some questions but
7 throughout the '80s, your procedure with regard to
8 bills stayed the same as it is now --

9 A Yes, as far as I know.

10 Q -- there has been no change?

11 What about time records, do individual
12 attorneys input their time on -- is that done through
13 a computer system?

14 A It is done -- at least through '85 to the
15 present day, it was done in the computer system. How
16 individual attorneys maintain their time varied.
17 Some attorneys actually kept individual time sheets.
18 Some attorneys dictated their time.

19 Q And then it gets inputted by their
20 secretaries?

21 A It gets inputted by the secretaries. Some
22 secretaries input it directly into the system. I

1 would say during the '85, '86 time period, an
2 attorney would either keep a separate time sheet or
3 dictate their time, or in some way have it
4 transcribed, where the secretaries would type in the
5 individual time sheets. And we had two steps. Back
6 then it was very inefficient.

7 Those time sheets then had to go down to
8 accounting and they were actually keyed into the
9 system. I don't believe any of our secretaries had
10 direct access into our accounting software during the
11 1985-'86 period. Now they do, so they can put it
12 directly into the system.

13 When the time sheet went down to
14 accounting, once it was keyed in, that particular
15 copy would have just been discarded. And as to
16 whether an attorney kept their own time sheets was
17 just a practice of the attorney; some did, some
18 didn't.

19 Q Do you have any understanding as to how
20 Mrs. Clinton maintained her time records during the
21 period 1985-'86?

22 A I don't.

30

1 Q Have you attempted to find out how she
2 maintained --

3 A We have looked extensively for her time
4 sheets and we have been able to find some of her time
5 sheets, which indicates at least she or her
6 secretary, one, did keep some copies of her time
7 sheets.

8 Q Were these handwritten time sheets or are
9 they just dictated?

10 A I think these were typed time sheets. In
11 my practice, what I do is I will have the time sheet
12 on my desk, I will handwrite the information, give
13 that to my secretary, and then my secretary types it
14 up. So I think most of what we've discovered were
15 typed time sheets and not handwritten time sheets. I
16 am not sure.

17 Q Have you looked for billing -- strike
18 that.

19 Have you looked for time sheets of
20 Mrs. Clinton for matters other than Madison?

21 A Yes. Yes, we have.

22 Q And are those records still in existence?

1 A Some are in existence. And again, when you
2 say time records, I am assuming you mean time
3 sheets. That's the only time record we have.

4 Q Yes.

5 A Yes, some of them are in existence. We
6 understand that Mr. Hubbell has taken some of them,
7 but we still maintain some in our firm.

8 Q When you said -- let's not get too far
9 ahead. You just said, I understand, Mr. Hubbell has
10 taken some time sheets. Are these time records of
11 Mrs. Clinton?

12 A That's what we understand.

13 Q What is your understanding with regard to
14 when Mr. Hubbell took time records of Mrs. Clinton
15 from the Rose Law Firm?

16 A I have no idea when he did it.

17 Q Have you attempted to find out when he
18 might have removed time records of Mrs. Clinton from
19 the Rose Law Firm?

20 A No.

21 Q Do you know whether it occurred prior to
22 the time when he left the Rose Law Firm, and --

1 A No, it would not have occurred then. I
2 think I would have known about it, had it been then.
3 I think -- he would have had to remove them before --
4 I guess there is a possibility, it would be very
5 unlikely he would remove them after he left the firm.

6 Q So he probably -- your best --

7 A I believe he would have taken them before
8 January 20 of 1993.

9 Q When did he leave the firm?

10 A His -- physically he left the firm sometime
11 in January. His last official day would have been
12 January 19th. I mean, we were very much trying to
13 make sure all our financial arrangements were cut off
14 with anybody that was joining the administration
15 before the inauguration.

16 Q So it is your belief he removed certain
17 time records of Mrs. Clinton prior to January 20,
18 1993?

19 A Yes. Let me back up. I know he currently
20 possesses them. I don't know whether he is the one
21 that took them.

22 Q What is the basis for your belief that

1 Mr. Hubbell currently possesses time records of
2 Mrs. Clinton while she was an attorney at the Rose
3 Law Firm?

4 A Mr. Nields told Mr. Atkins, N-i-e-l-d-s.

5 Q What is your understanding of what
6 Mr. Nields told Mr. Atkins about Mr. Hubbell having
7 time records of Mrs. Clinton?

8 MR. ATKINS: I can short-circuit this.
9 There are some time records from '87, '88 that they
10 have. I have reviewed those time records. There is
11 nothing in there related to Madison Guaranty.

12 MR. GIUFFRA: There is a tricky thing
13 here. Is that your understanding, that those are the
14 only time records that Mr. Hubbell now has in his
15 possession?

16 MR. ATKINS: It is my understanding I have
17 reviewed all the time records he has.

18 MR. KRAVITZ: Did you mean to say whether
19 those were the only time of Mrs. Clinton's that
20 Mr. Hubbell has in his possession?

21 MR. GIUFFRA: Yes.

22 MR. ATKINS: It is my understanding I have

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1 reviewed all the time records of Mrs. Clinton that
2 are in Mr. Hubbell's possession.

3 MR. GIUFFRA: All dated '87 and '88?

4 MR. ATKINS: Might have been a couple in
5 '89.

6 BY MR. GIUFFRA:

7 Q Mr. Clark, you don't know whether
8 Mr. Hubbell may have removed other time records that
9 may not now be in his possession?

10 A I do not know.

11 Q So it is possible that Mr. Hubbell might
12 have removed Mrs. Clinton's time records from the
13 period of '85 to '86 related to Madison prior to
14 January 20, 1993?

15 MR. KRAVITZ: Objection to form.

16 (The reporter read the record as requested.)

17 MR. KRAVITZ: I object to that question as
18 calling for speculation.

19 THE WITNESS: It is possible, yes.

20 BY MR. GIUFFRA:

21 Q Have you attempted to conduct any sort of
22 investigation to determine whether Mr. Hubbell did in

1 fact remove time records of Mrs. Clinton for the
2 period '85, '86?

3 A We have looked extensively as to what
4 records we do have. No one in the firm, currently
5 with the firm, has any knowledge, to my knowledge,
6 that any of those records were removed.

7 We have subsequently learned that some
8 files and time records were removed, but we have not
9 made any attempt to discuss directly with Mr. Hubbell
10 or his counsel as to when those were removed. We are
11 not on the best of terms with Mr. Hubbell right now.

12 Q What is the full extent of your
13 understanding with regard to what files and records
14 Mr. Hubbell removed from the Rose Law Firm prior to
15 his departure --

16 A Well, again --

17 Q -- in January 1993?

18 A I have no knowledge as to who may have
19 removed what files. We just learned the situation
20 with the time records within the last month or two
21 months, I guess. I first learned that any files were
22 removed in November of 1993, when we received the

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1 files back from David Kendall. And that's really
2 what I know.

3 Q The time records from the period '87, '88,
4 what matters were those related to, do you know?

5 A I have not seen them so I don't know.

6 MR. GIUFFRA: You want to just --

7 MR. ATKINS: I mean, I can tell you they
8 don't relate to Madison Guaranty or any of the
9 subjects of your investigation. To go beyond that
10 gets perilously close to privileged information.

11 MR. GIUFFRA: I tend to take a different
12 view of that. I don't see what the actual billing
13 records -- what matters were -- those relate to, I
14 don't think -- that certainly wouldn't require any
15 revealing of any privileged information.

16 MR. ATKINS: It could, Bob, and I don't
17 want to argue with you. I guess the most complete
18 answer I can give to you is that because I have
19 reviewed them, looking for matters that might relate
20 to subjects of this investigation, I have looked
21 carefully for those subjects, and these other matters
22 not relating to that, I can't recall what they were.

1 I can tell you there were a number of time entries
2 for Bar Association matters.

3 BY MR. GIUFFRA:

4 Q The question is does it appear Mr. Hubbell
5 took all of Mrs. Clinton's time records or he left
6 some in the firm?

7 A Yes, I know -- I am pretty sure we have
8 some at the firm. We had to look extensively for
9 time records on any matters we did, for example for
10 the FDIC and RTC, because of the audit of those
11 agencies, and Mrs. Clinton did perform some work for
12 those agencies. And I am pretty sure that we had
13 some time sheets for some time during that period of
14 time.

15 Q Do you know how recently it was that you
16 reviewed these time sheets or had someone review the
17 time sheets for Mrs. Clinton?

18 MR. KRAVITZ: Which time sheets are you
19 referring to?

20 MR. GIUFFRA: The ones that are still at
21 the firm.

22 MR. KRAVITZ: From 1987 and 1988, or from

1 other times?

2 MS. FISHER: He didn't say when they were
3 from.

4 THE WITNESS: At this point we are well
5 over a million pages of documents that we've produced
6 to various agencies, so I have not looked at even a
7 fraction of those.

8 The FDIC and the RTC audits started in the
9 spring of 1994. One of the first things that they
10 were wanting were time records, and so we immediately
11 started accumulating our time records and billing
12 records on every matter we had done for the RTC, the
13 FDIC. So someone in our firm would have accumulated
14 those, you know, no later than the summer of 1994.

15 And those have been maintained -- number
16 one, they have been produced all to the independent
17 counsel, to the FDIC IG, to the RTC IG. And we would
18 have maintained the originals under lock and key in
19 the firm. So I can't tell you I have ever actually
20 looked at any of the ones that relate to the
21 government. Anything related to Madison I probably
22 would have looked at.

1 Q Did the Rose Firm have a policy in place
2 with regard to the handling of files by lawyers who
3 were leaving the firm? And this would be in January
4 1993.

5 A Yes. I mean, of course, it depended on who
6 the lawyer was -- let me back up.

7 It would depend on what the lawyer was
8 doing when they were leaving. Generally speaking,
9 either the managing partner, chief operating officer
10 or primarily the person that was head of that
11 section, the practice section that the attorney was
12 working in, would get with that attorney, go down the
13 list of files; obviously any personal files that
14 attorney had, they could take, or any outside
15 activities.

16 For client files, any that were to be taken
17 could not be taken until we had a form letter. We
18 normally would agree to the form of the letter that
19 would be sent to the client. These were attorneys
20 that were obviously leaving to practice somewhere
21 else.

22 That form letter would not be necessary for

1 attorneys who were leaving to join the administration
2 or something like that because obviously they would
3 not be practicing law somewhere else.

4 Q Were any meetings held with Mr. Hubbell,
5 prior to his departure from the Rose Law Firm, with
6 regard to what files he would or wouldn't be taking
7 with him?

8 A There were -- I am sure there were several
9 meetings with attorneys in his section, as far as
10 what active files that he needed taken care of would
11 be transferred, the work being transferred to
12 attorneys. I don't think there would have been any
13 discussions with him as far as what files -- what
14 client files he would have taken with him, because it
15 would have been anticipated he would not have taken
16 any client files with him.

17 Q Do you know whether there were any
18 discussions with Mrs. Clinton when she left the firm
19 regarding her client files?

20 A Same type of discussion. I know there were
21 discussions as to who would take over active files
22 she had, but otherwise, I wouldn't think there would

1 have been any discussions.

2 Q As far as you know, did Mrs. Clinton remove
3 any client files prior to her departure from the
4 firm --

5 A No.

6 Q -- in January '93?

7 A Not to my knowledge.

8 Q Do you know whether Mr. Foster removed any
9 client files prior to his departure from the firm in
10 January of 1993?

11 A Again, the only knowledge, I do know, in
12 the transmittal letter sent to Jerry Jones from David
13 Kendall returning to us what were obviously our
14 client files, Mr. Kendall's letter refers these were
15 from Vincent Foster's files. Whether that means
16 Vince took them or Web took them, I don't know.

17 Q Let me show you a document which bears
18 Bates number RS 3881. This is a letter from David
19 Kendall dated November 22, 1993 to Mr. Jerry Jones.

20 Could you state for the record what you
21 know about the circumstances surrounding the return
22 of these documents to the Rose Law Firm?

1 A Sure. The day before -- well, I guess the
2 day of this letter -- the date is November 22 -- it
3 was early evening, Jerry came down to my office and
4 said he had gotten -- received a call from David
5 Kendall, that he apparently had some files that
6 belonged to -- he thought belonged to us, and he was
7 going to return them to us.

8 I can recall specifically being somewhat
9 upset about this in two respects. One, it was the
10 first I ever heard that files had been taken from our
11 firm; and two, I was upset that they were being
12 returned to us, frankly, because, it was obvious at
13 this point this was going to become a hot topic, and
14 I knew we were going to be put in the chain of
15 custody.

16 So the next day I received the files with
17 this letter attached. At that point I think Jerry
18 and I were the only ones that knew we were going to
19 get these files back.

20 Q Who is Jerry Jones?

21 A Jerry Jones is just a partner in the firm
22 that I would -- this is speculation but I would

1 speculate the reason David Kendall called Jerry was
2 because Jerry and I were the two people during this
3 time period who were having to deal with Web
4 concerning his theft.

5 Jerry was on better terms with Web than I
6 was. I was sort of being the heavy in this
7 counter -- in this confrontation, and so my guess is
8 Web gave Kendall Jerry's name.

9 But in any event, I received them the next
10 day via -- Jerry received them the next day via
11 Federal Express or something. And because I knew
12 they would be extensive, these particular files, I
13 kept them in my own office under lock and key, unlike
14 most of our other files, which were kept in a
15 separate room.

16 Q Did the files -- were they originals when
17 you received them?

18 A Yes.

19 Q Not copies?

20 A They were not copies.

21 Q Do you know whether Mr. Kendall maintained
22 copies of those files?

1 A I understand from his testimony before the
2 Senate that he did maintain copies. They were
3 ultimately produced to the independent counsel in the
4 spring of 1994.

5 Q Have you ever spoken to Mr. Kendall about
6 these documents?

7 A I have not.

8 Q Has anyone who is an agent of the Rose Law
9 Firm spoken to anyone about these files?

10 MR. KRAVITZ: You mean other than
11 Mr. Jones?

12 BY MR. GIUFFRA:

13 Q Mr. Jones or anyone else.

14 A Other than someone at Vinson & Elkins, I
15 don't know of anybody.

16 Q What is your understanding of
17 communications your counsel had with Mr. Kendall
18 about the circumstances surrounding the return of
19 these documents --

20 A I don't know -- I don't know that I have
21 any information or knowledge that they have spoken to
22 them about them, but I know they were having some

1 conversations.

2 Q As far as you know, were these documents --
3 strike that.

4 This letter says "I am enclosing herewith
5 three file folders," and it describes the file
6 folders, "which were among the late Vincent Foster's
7 files."

8 Do you have any knowledge as to whether
9 these were files -- these were among Mr. Foster's
10 files at the White House?

11 A I do not.

12 Q Have you attempted to find out the answer
13 to that question?

14 A No.

15 Q Do you know whether these were maintained
16 by Mr. Foster here, in his home here in Washington?

17 A I don't know.

18 Q Do you know if these were maintained by
19 Mr. Hubbell?

20 A I do not.

21 Q Do you know how the files got to
22 Mr. Kendall?

1 A No.

2 Q Do you have any knowledge as to why
3 Mr. Kendall would have made the reference to these
4 documents being "among the late Vincent Foster's
5 files"?

6 A I do not.

7 Q Have you attempted to find out why he would
8 have said that?

9 A No.

10 Q Were these matters that, as far as you
11 know, Mr. Foster worked on?

12 A They were not matters Mr. Foster worked
13 on.

14 Q Was it your belief that Mr. Foster had
15 removed these files prior to leaving the firm?

16 A It is obvious to me that someone removed
17 these files. I don't know whether Vince did or not.
18 And I have heard the stories in the press that there
19 were some documents in Web's basement that eventually
20 became David Kendall's. Whether these were among
21 them, I don't know. I really don't know who removed
22 them. Someone did.

1 Q Do you have any knowledge as to whether --
2 strike that.

3 Do you have any understanding as to whether
4 Mrs. Clinton had any involvement with regard to the
5 removal of any Rose Firm's files, client files --

6 A I have no knowledge.

7 Q -- prior to January 20, 1993?

8 A I have no knowledge that she -- one way or
9 the other that she participated in the removal of
10 files.

11 Q You can't say whether she did or she
12 didn't?

13 A No.

14 Q During what period was Carolyn Huber the
15 firm administrator of the Rose Firm?

16 A She would have been firm administrator from
17 the early '80s, starting in 1980 or 1982, through the
18 time of her departure which would have been in
19 December of '92 or January of '93.

20 Q Do you know the circumstances under which
21 Ms. Huber was hired as firm administrator by the Rose
22 Firm?

1 A She had -- Carolyn had been Mrs. Clinton's
2 secretary until the '70s -- this is before I was with
3 the firm -- and in 1978, I believe it was '78, when
4 the governor -- when then Governor Clinton was first
5 elected, Carolyn had left the firm to be
6 administrator something of the governor's mansion.

7 And then I guess it was in 1980 when
8 Clinton was defeated, then Carolyn came back to the
9 firm, and at that point I believe became
10 administrator.

11 Q Who replaced Carolyn as firm administrator?

12 A Cathy Harris.

13 Q Is she still the firm administrator?

14 A Yes.

15 Q Did Cathy Harris used to work for Carolyn?

16 A No.

17 Q What was her position prior to becoming
18 firm administrator?

19 A She was a personnel manager or something in
20 a savings and loan in Arkansas. Actually she had
21 been unemployed for a year or so -- let me back up.

22 She worked for the RTC before she came to

1 the firm.

2 Q When did she come to the firm?

3 A She came to the firm in -- let's see, it
4 would have been either late '92 or early '93. I
5 think it was sometime in '92. We knew Carolyn would
6 be leaving of course, assuming the election -- so I
7 think we actually interviewed Kathy and she came with
8 us sometime in late 1992.

9 Q Since January of 1993, do you have any
10 understanding as to whether Ms. Huber has returned to
11 the Rose Law Firm on any occasions?

12 A It is my understanding she has, yes.

13 Q What understanding do you have as to the
14 nature of Ms. Huber's visits to the Rose Law Firm?

15 A I don't know of any specific visits she
16 had. I heard of occasions she has been in the
17 office. I always assumed it was just visiting
18 people. She has a lot of good friends there.

19 Q You have no understanding as to whether she
20 ever reviewed any documents at the Rose Law Firm?

21 A I have no reason to think she has done
22 that.

1 Q Since January of 1993, has Mrs. Clinton
2 been back to the Rose Law Firm offices?

3 A Since January of 1993, I do not believe she
4 has been back to the offices since then.

5 Q Do you have any understanding as to whether
6 Mr. Foster was back at the firm between January 20,
7 1993 and July 20, 1993?

8 A I believe that the weekend that he was in
9 Arkansas to give the commencement address that he
10 dropped by the firm and visited with a few people
11 sometime during that weekend.

12 Q Do you have any understanding as to whether
13 Mr. Hubbell returned to the firm after January 20,
14 1993?

15 A I know Web was there at least once, which
16 was in June of 1993.

17 Q What were the circumstances under which he
18 was visiting the firm?

19 A We were dealing with Web on his theft
20 issue.

21 Q That was June 1993?

22 A That was June of 1993, yes.

1 Q Do you remember the exact date?

2 A No, I could find out for you but I don't
3 recall.

4 He was in town --

5 MR. ATKINS: Let me interrupt a moment.

6 When you say the theft issue, you mean what became a
7 theft issue.

8 THE WITNESS: Yes, actually it was not
9 considered a theft issue at that time. Jerry and I
10 had visited with Web in May of 1993 in Washington
11 about various matters, including answering some of
12 these billing questions that we had which at that
13 point were really billing questions.

14 You know, he was a busy man obviously, and
15 by June, he had not given us any of our answers. We
16 knew that he was coming into town to speak at the
17 Arkansas Bar Association annual meeting which is in
18 Hot Springs, about an hour outside of Little Rock.

19 And I asked Jerry to ask Web to drop by the
20 firm either on his way over there or on his way back
21 so I could talk to him about this issue. So he met
22 in my office with me and Jerry Jones and another

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1 partner, and we discussed these issues. And to my
2 knowledge, that's the only time he has been back to
3 the firm.

4 Q Do you know when Mrs. Clinton first learned
5 an issue had arisen with regard to Mr. Hubbell's
6 billing of clients of the Rose Law Firm?

7 A I don't. We have -- we intentionally went
8 out of our way not to discuss that with anybody in
9 the administration, so I don't know when she first
10 learned.

11 Q Have you conducted an audit with regard to
12 billing -- strike that.

13 There came a time when you conducted an
14 audit of Mr. Hubbell's billings; correct?

15 A .Correct.

16 Q Did you conduct an audit of any other
17 former Rose Partners, i.e., Mrs. Clinton,
18 Mr. Kennedy, or Mr. Foster?

19 A No. The way the Hubbell matter got started
20 was in -- I have already described to you how, in the
21 active files, we pretty much relied on the
22 responsibility of the attorneys to deal with people

1 in their section to transfer the active files. As
2 you might guess, our accounting records, there's
3 literally hundreds of inactive matters or small
4 matters that each attorney handles.

5 Sometime after January 31 of 1993, the
6 accounting department just dumped this big stack of
7 green bar computer printouts for Vince Foster, Web
8 Hubbell, Bill Kennedy and Hillary Clinton on my desk,
9 so that at some time I would go through those to try
10 to determine who would become a billing partner for
11 various matters, who would be responsible for files,
12 that sort of thing.

13 I guess in late April, early May of 1993, I
14 started going through those, so I did go through
15 Hillary's green bars at that time and went through
16 Bill Kennedy's. I went through Vince Foster's areas
17 in order to do this. No issues were raised, no
18 questions ever appeared.

19 During that process of going through Web's
20 is when I first discovered some questions on the
21 billing matters that I couldn't get answers to.

22 Q When was that?

1 A That would have been in May of 1993.

2 Q And what were the questions that arose with
3 regard to Mr. Hubbell's bills?

4 A Well, in going through and trying to --
5 literally what I was trying to do is we had these
6 hundreds or thousands of accounts that somebody
7 needed to start taking care of, and to be receiving
8 their accounting reports and that sort of thing. So
9 I was really going through these green bars, and when
10 it said client X matter Y, I was putting out to the
11 side, all right, attorney John Doe would start
12 handling this matter. Obviously I didn't know 90
13 percent of these matters. I never worked on them.

14 And so one way that I was trying to
15 determine who to assign these matters to was to go
16 down and examine billing records to see who else had
17 worked on these matters. And so I was going down,
18 looking at billing records for all these people to
19 see, Rick Donovan or Ron Clark had worked on this
20 matter.

21 And in going down and looking at the
22 billing matters for Mr. Hubbell, I started seeing

1 these -- some client advance matters and
2 disbursements for travel expense, \$2000, deposition
3 expense \$2000, which had not been billed to clients,
4 which had been written off. And it raised the
5 question why is the firm paying for those. Why
6 aren't those being billed through to clients, and
7 that's what started the whole thing. And I didn't
8 see those issues with Mrs. Clinton's or Mr. Foster's
9 or Kennedy's bills.

10 Q When you first raised the issue with
11 Mr. Hubbell was that by telephone in May of 1993?

12 A No, it was in person. At about that same
13 time we were having significant difficulties with
14 some of the aftermath of the POM case. We were in
15 the process -- I can't remember if we had been sued
16 or being threatened to be sued by one of the
17 consultants in that case.

18 Q That is Park-O-Meter?

19 A That's right.

20 Q That was the firm that was run by
21 Mr. Hubbell's father-in-law, Seth Ward?

22 A Actually it was run by his brother-in-law.

1 Q Brother-in-law?

2 A Seth Ward, Jr., affectionately known as
3 Skeeter. And so we were -- like I say, I can place
4 it -- I think we were in the process of about to be
5 sued, we thought, by one of the consultants, the
6 antitrust consultants in that case. And so Jerry and
7 I arranged to meet Web in Washington to discuss
8 primarily that matter, about -- Web had been
9 promising us for some time that he was going to take
10 care of that matter, his wife's family was going to
11 pay those bills and pay us the significant amount of
12 money that they owed us. And so that was our big
13 concern at that point.

14 In addition to that --

15 Q This was a case that he had taken as a
16 contingency?

17 A Yes.

18 Q And had been unsuccessful?

19 A Yes.

20 Q And he had agreed to pay -- at least make
21 good some of the billings and disbursement of the
22 firm?

1 A Just the disbursements is all we were
2 talking about.

3 Q He would make good?

4 A He personally.

5 Q The family?

6 A The company. He told us the client was
7 going to arrange for those payments.

8 Q About how much money was that?

9 A At that point in time, it was about
10 \$400,000 in disbursement that we were due. At the
11 time Web left the firm, it was about -- known to us,
12 about 150. And within two weeks of his departure, we
13 got bills in from third parties saying we owed them
14 another \$220,000 that we didn't know anything about,
15 was not on our books.

16 Q What is your estimate of the amount of
17 money that Mr. Hubbell stole from the firm with
18 regard to his disbursement scheme?

19 MR. KRAVITZ: Can we hang on for one
20 second.

21 Bob, I haven't interrupted this line of
22 questioning, as long as it was preliminary it seemed

1 to be related to general billing practices which I
2 think were relevant. But what I guess I want to ask
3 you is to articulate for me, and maybe for the
4 record, why details about Mr. Hubbell's theft from
5 the Rose Law Firm is relevant here.

6 MR. GIUFFRA: Sure thing.

7 Well, I think the first reason is that
8 Mr. Hubbell is a critical witness with regard to this
9 whole matter, and his credibility is certainly at
10 issue. And the Committee certainly is entitled to a
11 basic, rudimentary understanding of his theft of
12 money from the Rose Law Firm and the reasons why he
13 is now a felon.

14 And since he has testified and raised his
15 hand, and swore to tell the truth, we have
16 certainly -- certainly matters that are relevant,
17 number one.

18 Number two, some of the theft that he
19 engaged in had to do with the representation by the
20 Rose Law Firm of the RTC. And that's something
21 that's specified in the resolution. So, with that I
22 am certainly going to go into it.

1 What was the last question I had?

2 BY MR. GIUFFRA:

3 Q What was the amount of the scheme?

4 A Because of our -- again, as I testified, we
5 only maintained accounting records for a limited
6 period of time, we only had good records going back
7 through 1989. And I know, just from my discussion
8 with independent counsel, they were unable to find
9 records from the credit card companies going back
10 much before that.

11 So for the period of roughly '89 through
12 his departure, he misappropriated, according to his
13 plea, approximately \$485,000.

14 Q Do you have a belief it may be more than
15 that?

16 A Well, he hit the ground running in 1989, so
17 I've got to believe that it probably started before
18 then.

19 Q Do you have any basis for that
20 understanding, or belief, excuse me.

21 A We had -- we were able to occasionally find
22 a bill that had a questionable matter on it in 1988,

1 but again, as far as proving theft, sort of the way
2 this worked out you really had to have the credit
3 card receipts and we were not able to get them at
4 all. And the independent counsel, I don't think, was
5 able to get it.

6 Q Were these a firm credit card?

7 A No, personal credit card.

8 Q When you first approached Mr. Hubbell with
9 regard to these irregularities regarding
10 disbursements, what was his response to you?

11 A Well, again, in May of '93, it was Jerry
12 and I. I've got an accounting background. I am sort
13 of the suspicious sort and Jerry is not.

14 Q Is Jerry a litigator?

15 A Yes, he is a litigator. Neither one of us
16 thought this was a question of theft. I thought it
17 was a question of sloppy bookkeeping. We asked him
18 about them. I had a little summary of the ones, I
19 think the dollar amount we were looking at then was
20 about 20- to \$25,000 of disbursements that didn't
21 look right.

22 Web said oh, yes, no problem, he will get

1 the information for us, it could be explained. And
2 we said great, and left.

3 Q Then you subsequently -- he subsequently
4 came to see you in June of 1993?

5 A By June of 1993 we had not received any
6 response, and again even then, we -- I can't say I
7 was that suspicious but I thought I would take the
8 opportunity while he was in town to sort of press him
9 to get it done. So I pressed him and said -- and we
10 basically got the same response there -- that, you
11 know, I apologize, I am busy, this could be
12 explained. I will get this information to you. And
13 once again, we said okay, Web, but we really would
14 appreciate if you would do that.

15 I didn't do anything else on it, I intended
16 to follow up, you know, sometime in July, if I had
17 not heard from him. Obviously in July Vince killed
18 himself. That put us all back on our heels for the
19 longest time, and I intentionally took no action on
20 the matter out of respect for everybody, primarily.

21 By sometime in September I still had not
22 received anything. So I wrote Web a letter saying,

1 you know, enough is enough, you know, we need it
2 right now.

3 Q And your belief was it was still a \$25,000
4 problem?

5 A At this point we thought it was roughly
6 that same amount.

7 By October, we still had not received a
8 response. So in the November firm meeting I reported
9 to the firm the matter -- they already were generally
10 aware of the questions.

11 I said at this point, the delay had gotten
12 to such extent that I was concerned that the problem
13 may -- had gotten larger than that. So I in fact
14 requested permission to go ahead and start a broader
15 investigation.

16 Q From the firm?

17 A From the firm. And with that, I did
18 undertake a review.

19 Q And when was that exactly, the broader
20 investigation?

21 A That was in November of 1993.

22 Q Would that have been the first time that

1 this issue would have been widely aired within the
2 firm?

3 A No, no. I mean, the firm would have known
4 about the general question of -- questions concerning
5 Web's billing maybe possibly in May of 1993,
6 certainly by June of 1993.

7 Q And that would have been information that
8 would have been shared with all the partners in the
9 firm?

10 A Anybody who would have attended the firm
11 meetings, which is not necessarily everyone but we
12 did discuss this at the firm meetings. We have
13 monthly firm meetings.

14 Q So then in November you decided you were
15 going to have an investigation and the partners all
16 know that?

17 A That's right.

18 Q And was the investigation still limited to
19 this \$25,000 issue?

20 A No. At that point I went back and looked
21 at all client advance checks that Web had written in
22 1992 and 1991. At that point we only went back two

1 years.

2 And again, even at that point we had no --
3 once -- what we produced was a significant number of
4 client advance checks. Now, Web was a litigator, he
5 traveled a lot, so it did not surprise me to see a
6 huge volume of client advance checks.

7 But unlike the vast majority of the people,
8 he paid his credit card bills directly. I mean, most
9 of us, what we would do, if I charged a hotel bill to
10 my credit card, I would bring the hotel receipt back
11 and write myself a check. And then when my bill came
12 in a month later, I would write my -- what Web did,
13 wait a month until his credit card bill came in and
14 he was writing checks directly to his credit card
15 company.

16 Q On the firm checking account?

17 A It is the client advance account.

18 Q So basically, to make it real simple,
19 normally if a lawyer stays in a hotel, they submit an
20 expense form to the firm, and -- for the amount of
21 the hotel bill. And then the firm will write a check
22 to the lawyer and then the lawyer will have that

1 money and pay off their credit card company with a
2 personal check?

3 A That happened in probably 90 percent of the
4 checks.

5 Q What Hubbell did was, he would get his
6 credit card bill and then have this client advance
7 account, write a check for the amount of what he
8 thought he was entitled to for his expenses directly
9 to the credit card company?

10 A Right. Where the system broke down,
11 where -- why we didn't discover this earlier was it
12 was the policy of the firm in those days that you had
13 to maintain receipts for those expenses. But you
14 could maintain them either by sending them down to
15 accounting, or you could maintain them by keeping
16 them in your client files. And a lot of attorneys
17 did keep them in their client files because if a
18 client had a question about an expense that would be
19 the easiest thing to do.

20 And so, Web's scheme, to use the word, was
21 he was in effect implying that he was maintaining
22 them in the client files so there wasn't anything

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1 necessarily suspicious about him writing checks
2 directly to his credit card companies. Other people
3 did that because some people have -- some partners
4 have cash flow issues; they don't want to get a
5 client advance check and a month later have a \$3000
6 bill show up on credit cards, so some of them did
7 wait until the credit card bill came in. Most of
8 them would take the credit card bill, circle the
9 expenses, send that down to accounting, get the
10 check.

11 Web said he was keeping those in his client
12 files. Obviously when we did the investigation,
13 found this huge number of checks written to his
14 credit card company, and then went to the client
15 files for the receipts, that's when, in basically
16 December, at that point, of 1993, we didn't discover
17 the receipts.

18 Q Did the Rose Law Firm have procedures
19 whereby -- strike that.

20 In this period, '89 to '92, did you have
21 procedures whereby only certain partners could sign
22 checks, firm checks?

- 1 A Not during that period. Well, for client
2 advance checks, no. Any partner could sign a client
3 advance check. If it was a client advance check in
4 excess of a thousand dollars, two partners had to
5 sign it.
- 6 Q So were -- when Hubbell had --
- 7 A He signed most of these checks himself.
- 8 Q They were all under a thousand?
- 9 A No, some of them were over a thousand.
- 10 Q Were any of them signed by two partners
11 including Hubbell?
- 12 A Yes.
- 13 Q Do you know approximately how many?
- 14 A I don't know.
- 15 Q Did Mrs. Clinton sign any of these checks?
- 16 A Yes.
- 17 Q Did Mr. Foster sign any of the checks?
- 18 A I don't believe so.
- 19 Q Did Mr. Kennedy sign any of the checks?
- 20 A I don't believe so.
- 21 Q Do you recall approximately how many checks
22 Mrs. Clinton might have signed along with

- 1 Mr. Hubbell?
- 2 A I don't recall any checks that were signed
3 by nonlitigators which would -- typically what
4 happens when the secretary does them, she'll go to
5 whoever is available there. I would -- I would think
6 two or three maybe had been signed by Mrs. Clinton.
- 7 Q Do you remember the dollar amounts?
- 8 A I don't, no.
- 9 Q Has anyone at the firm asked Mrs. Clinton
10 circumstances under which she signed these checks?
- 11 A No.
- 12 Q Going back to the investigation that you
13 were authorized to conduct in November of 1993, what
14 happened next?
- 15 A We had this list of checks; at that point,
16 a very extensive list of checks. I then went and
17 pulled the bills on five different clients, primarily
18 because that's where -- I took I think the five
19 highest concentration of checks.
- 20 Q Some of these were the RTC?
- 21 A Some of these were the RTC, that's right;
22 four or five checks were related to the RTC. And I

1 then went and actually pulled the bills and billing
2 memos of those checks to find out whether there were
3 past due to clients, or whether they were due in this
4 scheme where he was writing them off against his or
5 other people's fees. I prepared and discovered that
6 most of them had been written off.

7 Now a large number of them were related to
8 POM, which of course we never actually billed POM for
9 fees because that was a contingency fee matter, so
10 that was a little different. I treated those
11 separately. I prepared two schedules, one showing
12 the ones written off; one just a list of the POM
13 checks. And then I had backup with that.

14 Web came into town for Christmas in 1993,
15 and Jerry called him. And either over at Web's house
16 or Jerry's house, one, Jerry gave him the schedules
17 only, did not give him the backup, and said we need
18 this explained.

19 Q What was the dollar amount at that point?

20 A It was about \$88,000. I subsequently
21 asked; Jerry reported that to me.

22 Q What did Hubbell say to Jerry?

1 A Same thing, you know --

2 Q I am a busy man and I am working on it?

3 A It can be explained, don't worry about it,
4 I will get you the documentation. Jerry reported
5 that to me --

6 Q Do you have any understanding as to whether
7 Mrs. Clinton was aware of this issue as of year-end
8 1993?

9 A I don't think she was aware of it. I have
10 no information unless Web -- I have actually asked
11 that question and a lot of the attorneys in our firm
12 have been asked that question by various regulators.
13 And no one, to my knowledge, had any discussion with
14 Mrs. Clinton during this entire period of time.

15 Q About Hubbell's billing irregularities?

16 A That's right.

17 Q But it is conceivable she could have known
18 as early as 1993 because the other partners in the
19 firm knew in 1993 about this issue?

20 MR. KRAVITZ: Objection to the form of the
21 question.

22 THE WITNESS: In May I think only probably

1 a few partners knew about it. I think most partners
2 would have known about not theft but questions about
3 his billing in June, at least by June.

4 Anyway, when Jerry reported that
5 conversation to me --

6 BY MR. GIUFFRA:

7 Q Let me ask another question. Do you have
8 any understanding as to whether Mrs. Clinton still
9 speaks with some of her former partners at the firm?

10 MR. KRAVITZ: Do you mean now or back in
11 1993?

12 BY MR. GIUFFRA:

13 Q During 1993, do you have any understanding
14 as to whether Mrs. Clinton spoke with partners of the
15 firm?

16 A Yes, I think in 1993 certainly she was
17 speaking to -- I know for a fact she was speaking to
18 some partners in 1993.

19 Q On a regular basis?

20 A I don't think on a regular basis.

21 Q Do you know which partners she would have
22 been speaking to?

1 A I know Amy Stewart spent some time on the
2 health care issues in, I think this same period of
3 time, May of 1993. That's the only one I know for a
4 fact that she was having discussions with.

5 Q When did Amy Stewart first learn of the
6 issue of the Hubbell billing irregularities?

7 A It would have been in May or June of that
8 year. Anyway, when Jerry reported his discussion
9 with Web, I was concerned that Web just wasn't
10 getting it. And so I asked Jerry to have Web call
11 me, and he called me the Monday after Christmas of
12 that year.

13 And I told him during that conversation
14 that at this point a number of his partners,
15 including me, thought he had stolen money from our
16 firm, and that he better get this information to us
17 within a very short period of time or we had no other
18 conclusion to reach other than that there was
19 something improper. And we had ethical
20 responsibilities, because, though again we had no
21 hard evidence that any client funds were involved, we
22 certainly were suspicious or afraid that they were

1 involved. And either he produce it to us or, you
2 know, we would have to take the appropriate action.

3 He assured me that that was not the case,
4 that he didn't think it would be in anybody's best
5 interest if it became public, and that he would get
6 that to us as soon as he could. So in January of
7 that year, the firm met, and at that point, decided
8 that because of the length of time with no response,
9 we had no choice but to make an ethical referral on
10 Mr. Hubbell.

11 In the mean -- that January, when we first
12 started getting subpoenas too, we engaged Vinson &
13 Elkins. Subsequent to that, they helped us look at
14 some of this same billing information, and we
15 ultimately made a referral to the Arkansas Supreme
16 Court Committee on Professional Conduct.

17 Q When did Mr. Hubbell learn of this referral
18 to the Arkansas Supreme Court Committee on
19 Professional Conduct?

20 A I think it was some wonderful attorney in
21 our firm leaked that we made the referral, and it was
22 in the newspapers shortly after we had done it, so I

1 guess that's the first time.

2 Q Do you remember what date that was?

3 A March.

4 Q March of 1994?

5 A 1994.

6 MR. ATKINS: Can we take a break?

7 MR. GIUFFRA: Yes.

8 MR. KRAVITZ: What happened in March of
9 1994, the referral was made or the referral was
10 leaked?

11 THE WITNESS: We actually made the referral
12 in March of 1994, I believe.

13 MR. KRAVITZ: It was leaked to the
14 newspapers in March of 1994?

15 THE WITNESS: In March of 1994.

16 MR. ATKINS: Off the record.

17 (Discussion off the record.)

18 BY MR. GIUFFRA:

19 Q The question with regard to the
20 investigation that was done in January, that you
21 would conduct the investigation -- strike that.

22 You made the judgment with regard to the

1 investigation in December of 1993 to conduct an
2 investigation?

3 A November.

4 Q November of 1993. You confronted Hubbell
5 again around Christmastime?

6 A Yes.

7 Q Then you confronted him again in January?

8 A No.

9 Q What happened then in January?

10 A In January, in late January is when we
11 first engaged Vinson & Elkins, and neither -- to my
12 knowledge, neither Jerry nor I had any further direct
13 contact with Web, during that -- the remaining time
14 period.

15 Vinson & Elkins had discussions with
16 Mr. Hubbell's attorney about getting this
17 information. The position they were still taking was
18 that the -- that there was no wrongdoing. We
19 suggested several alternatives including gives us a
20 power of attorney to allow us to write to the credit
21 card companies directly to get these receipts, and
22 they refused to do that. But all that was through

1 our attorneys.

2 Q What position was Mr. Hubbell taking
3 through his attorneys as it was reported to you?

4 A Same position, that there was no
5 wrongdoing, that the matters could be explained,
6 given time. He did not want to give us his credit
7 card receipts. Just under some --

8 Q What was the theory they gave for not
9 returning the credit card receipts?

10 A I don't recall specifically.

11 Q What was the dollar amount at issue at that
12 point, January 1994?

13 A It was still approximately \$88,000. We had
14 gone back and pulled the checks for '89 and '90, but
15 we had not pulled any more additional client bills at
16 that time, because again, without the credit card
17 receipts, there was really no -- we couldn't prove
18 anything without those credit card receipts, so there
19 wasn't any reason to accumulate much significant
20 documentation.

21 Also, about that time this matter was being
22 reported in the press independent counsel had been

1 appointed and I was going to get questions from the
2 independent counsel about this matter. And somewhere
3 in the same time period we did start pulling all
4 those bills and eventually producing them.

5 Q When you say "this matter" --

6 A I mean the Hubbell matter.

7 Q When did the independent counsel learn
8 about the Hubbell matter?

9 MR. ATKINS: Whenever it was in the
10 newspapers.

11 THE WITNESS: When it was in the
12 newspapers.

13 BY MR. GIUFFRA:

14 Q March of 1994?

15 A In my very first grand jury appearance on
16 the shredding matter, the independent counsel had a
17 copy of the newspaper and said what can you tell me
18 about this, and I answered those questions.

19 Q When are firm partner meetings usually
20 held?

21 A They are held the Monday after the second
22 Tuesday of every month. The executive committee

1 meets the second Tuesday of every month, and then the
2 firm meeting is just the Monday after that.

3 Q So the third Monday in every month?

4 MR. KRAVITZ: Not necessarily.

5 BY MR. GIUFFRA:

6 Q Not always. Okay. I guess that's right.
7 Just briefly, just tell us, go through the rest of
8 the chronology with regard to Mr. Hubbell's
9 disbursement.

10 A Well, that's -- I mean, again, we had no
11 further contact whatsoever with Mr. Hubbell during
12 that time, especially as soon as the independent
13 counsel got involved. And, again during my initial
14 testimony, I said that I thought that there was some
15 theft involved, though at that point we still -- I
16 mean, I should have believed but I did not believe
17 that we had client funds involved; I thought all the
18 theft was from us.

19 I thought even if someone was going to
20 steal from the partners, a lawyer would never steal
21 from his clients. And we had no proof because we
22 didn't know what those expenses were for, but we did

1 know that one of -- and I testified before the grand
2 jury that one of the clients on the list was the RTC
3 we were concerned about. So I think that prompted
4 the independent counsel to feel like they should look
5 into it also.

6 And so, at that point I worked hours and
7 hours and hours with the independent counsel, going
8 over all this information. Again, they were able,
9 through their subpoena power, to obtain the credit
10 card records which we had not received.

11 We supplied them all our billing
12 information, and I assisted in that investigation, in
13 going over the documentation with them, trying to
14 explain to them the best I could, what was what. And
15 ultimately, he was indicted and pled guilty.

16 Q Just to clarify something you said earlier,
17 when you got the information with regard to matters
18 that were being handled by Hubbell, Mrs. Clinton,
19 Kennedy and Foster, what exactly was the information
20 you were flipping through, was it billing materials
21 or --

22 A It was a list of the files then on the

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1 system, that they were the billing attorney for, that
2 was the initial source document.

3 Q Now, going back to the question of the
4 handling of client files, do you have a firm office
5 manual?

6 A No.

7 Q Was there any document that sets forth what
8 the firm policy is with regard to the handling of
9 client files? This is the period '80 through '94.

10 A No.

11 Q Did the firm malpractice policy contain
12 anything requiring you to do anything with regard to
13 the handling of client files?

14 A Not to my knowledge.

15 Q Do you have anything requiring maintaining
16 files confidential, any requirement that the files be
17 maintained confidential?

18 MR. KRAVITZ: You mean written
19 requirement?

20 THE WITNESS: No written requirement.

21 BY MR. GIUFFRA:

22 Q No written requirement?

1 A There was a general understanding of the
2 privilege, that all clients files would be maintained
3 as confidential.

4 Q Let me direct your attention to the '92
5 Presidential campaign. Were a number of Rose lawyers
6 involve in that campaign?

7 A No.

8 Q Was Mr. Hubbell involved in that campaign,
9 as far as you know?

10 A No.

11 Q Mr. Foster?

12 A No.

13 Q Kennedy?

14 A No.

15 Q Just Mrs. Clinton?

16 A Yes.

17 Q Did any Rose lawyers provide any volunteer
18 time to the campaign?

19 A Yes, Allen Bird was, I know, one of the
20 guys that went to New Hampshire on the bus and
21 campaigned in New Hampshire. But, as far as I know,
22 there were no other attorneys active in the campaign.

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1 Q The firm didn't provide any legal services
2 in the course of the campaign?

3 A I do not believe that we performed any
4 legal services for the campaign. Now, I know Vince
5 actually opened a client account and did perform some
6 legal services after the election for the transition
7 team.

8 Q Do you know what those legal services were
9 that Mr. Foster performed for the transition team?

10 MR. ATKINS: Just answer that yes or no.

11 THE WITNESS: Yes.

12 BY MR. GIUFFRA:

13 Q Did any of those services relate to Madison
14 and Whitewater?

15 A Not to my knowledge.

16 Q What was the practice of the firm with
17 regard to handling -- this is in the period 1980 to
18 1993, 1994 -- investment matters for partners?

19 A I am not sure I understand.

20 Q Let me rephrase the question.

21 Would the firm provide legal services to a
22 partner in connection with that partner's business

1 investments?

2 A Possibly.

3 Q Did the firm have any sort of a policy with
4 regard to providing such legal services, in
5 connection with a partner's business investments?

6 A No. I mean, it was generally understood, I
7 think, that we wanted to keep that to a minimum.

8 But, I mean, in my area, if somebody wanted me to
9 draft a will for a partner and his wife, I would
10 certainly do so. And if I could help somebody -- I
11 helped a couple with adoptions and that sort of
12 thing, it was certainly allowed and it was done.

13 Q What about investments of partners not, for
14 example, home or a will, or something along those
15 lines?

16 A There was no general breakdown as to what
17 you should and -- should or should not do. If it was
18 a matter that a partner wanted you to do and could
19 you do it within a reasonable amount of time was
20 generally up to the discretion of the attorney that
21 was being asked to do the work, whether they wanted
22 to mess with it or not.

1 Q Did partners normally pay the firm for
2 provision of such services?

3 A No, or not for minor matters.

4 Q With regard to Bill and Hillary Clinton,
5 were they ever formally clients of the firm?

6 A Yes.

7 Q When did they become clients of the firm?

8 A Well, I know at some point prior to the
9 election, we -- someone in the firm did a couple of
10 wills for them, this would have been in the mid-'80s,
11 I believe. And then certainly after the election, we
12 represented them in the blind trust matters, creating
13 and setting up the blind trust.

14 Q Did the firm formally represent the
15 Clintons in 1991 with regard to their investment in
16 Whitewater Development Corporation?

17 MR. ATKINS: Bob, I have a problem with the
18 word "formally." Could you tell me what you mean.

19 MR. GIUFFRA: Strike that.

20 BY MR. GIUFFRA:

21 Q Did the Clintons retain the Rose Law Firm
22 in 1991 to provide legal services in connection with

1 their investment in Whitewater Development
2 Corporation?

3 A Not that I know of.

4 Q Do you have any understanding as to whether
5 any attorneys of the firm provided any legal services
6 to the Clintons in 1991 in connection with their
7 investment in Whitewater Development Corporation?

8 A Yes.

9 Q What is your understanding of the services
10 that were provided by firm attorneys to the Clintons
11 in connection with their investment in Whitewater
12 Development Corporation?

13 A It is my understanding that, at some point
14 in 1991, Mrs. Clinton or someone became concerned
15 that their name was appearing in the real estate
16 records, up wherever Whitewater Development was, as
17 being delinquent real estate tax owners. And they
18 became concerned about not knowing what was going on,
19 and so Hillary or Carolyn or someone went to Bill
20 Kennedy and asked him to see if he could look into
21 that situation and try to determine just who owned
22 what, and why their name was appearing in the

1 newspapers as not paying the property taxes.

2 Q As far as you know, the Rose Law Firm never
3 billed the Clintons for the services?

4 A That's right.

5 Q Did Mr. Kennedy ever fill out any time
6 records for the services he performed in connection
7 with Whitewater in 1991?

8 A I don't think so.

9 Q The Clintons never retained the Rose Law
10 Firm to perform these services?

11 MR. ATKINS: I guess I am confused. What
12 do you mean by "retained"? When you perform legal
13 services, there is attorney-client relationship.

14 BY MR. GIUFFRA:

15 Q The services that Mr. Kennedy provided he
16 was providing in his personal capacity as a gift to
17 the Clintons?

18 A Well, he was -- to the extent he provided
19 legal services he was certainly doing it as a lawyer
20 in the Rose Law Firm but he did not bill for it. He
21 was doing it as a personal accommodation to
22 Mrs. Clinton.

1 Q Do you know approximately how much time
2 Mr. Kennedy spent on this Whitewater matter?

3 A I do not.

4 Q Have you ever asked him how much time he
5 spent on the Whitewater matter in 1991?

6 A I have not.

7 Q Have you ever asked him what services he
8 provided to -- strike that.

9 Do you have any understanding as to what
10 services he provided to the Clintons in 1991 in
11 connection with Whitewater?

12 A Yes, pretty much what I said, he did some
13 property research.

14 Q Do you know whether Mr. Kennedy provided
15 any services to the Clinton campaign in 1992,
16 relating to Whitewater?

17 A I don't believe that he did.

18 Q Do you know whether Mr. Foster provided any
19 services to the campaign with regard to Whitewater?

20 A I do not have any knowledge of that, no.

21 Q Do you know whether Mr. Hubbell provided
22 any services --

1 A Not to the campaign. Web was answering
2 questions for us during that period of time, but I
3 don't think he was working for the campaign.

4 Q What exactly was Mr. Hubbell doing during
5 1992 -- strike that.

6 What questions was Mr. Hubbell answering
7 for the Rose Firm in connection with the Clintons'
8 investment in Whitewater during 1992?

9 A I don't even know if he was answering any
10 with respect to Whitewater.

11 I mean, Web was our firm's spokesman during
12 that period of time, and we were getting various
13 inquiries from the press on all kinds of things. And
14 I can't really give you an example of a question he
15 may have answered but I don't know of anything he's
16 done specifically on Whitewater.

17 Q He was answering just questions generally
18 that would arise relating to the fact that
19 Mrs. Clinton was a partner of the firm?

20 A Right, what trials she had, and what
21 matters she worked on.

22 Q So you have no knowledge whether he did

1 anything bearing on Whitewater or Madison during the
2 campaign?

3 A I do not know.

4 Q I will ask you a few questions about
5 Ms. Huber. Do you have any understanding as to
6 whether Ms. Huber was someone who monitored the
7 Clintons' investments for them during the 1980s and
8 up until 1992?

9 A No.

10 Q Why did you mention before that Carolyn
11 Huber might have been the one asking Bill Kennedy to
12 look into the Clintons' investment in Whitewater?

13 A Because Hillary was pretty much gone during
14 that time because of the campaign.

15 Q This would be 1991 though.

16 A Right, but Hillary was still out quite a
17 bit then, even though they hadn't announced they were
18 sort of gearing up for that. And it was not unusual
19 for -- because of the close personal relations that
20 Hillary had with Carolyn for some of her requests to
21 come through Carolyn.

22 Q Have you attempted to ascertain whether any

1 Federal Express packages were sent, let's say, from
2 November 1992 through the end of 1994, from the Rose
3 Law Firm to the White House?

4 A No.

5 Q Have you attempted to ascertain whether any
6 Federal Express packages were sent from the Rose Law
7 Firm to Mr. Hubbell during this period, November 1992
8 to January -- to the end of 1994?

9 A No.

10 Q Same question with Mr. Kennedy.

11 A I have not attempted to ascertain. I have
12 not asked Federal Express about anything.

13 Q Do you maintain your Federal Express
14 records going back that far?

15 A I would guess that we maintain them for
16 clients, once again, when we stick them in a client
17 file, but I don't think we would necessarily -- I
18 mean, on our Federal Express, we get one bill a month
19 and our accounting goes through it and allocates.
20 And I am sure we have copies of those bills but I
21 doubt we have the air bills.

22 MR. ATKINS: Let me interrupt. By not

1 having air bills, do you mean that you don't know if
2 you have the addressee of various packages?

3 THE WITNESS: The individual sheets they
4 stick in Fed Ex packages.

5 BY MR. GIUFFRA:

6 Q Have you made any effort to ascertain
7 whether documents were transmitted, shipped, in any
8 fashion, between November 1992 through the end of '94
9 to Mrs. Clinton, the White House, Hubbell, Kennedy,
10 Foster?

11 A Yes.

12 Q And what have you ascertained?

13 A Well, back during -- back during -- we are
14 still in the subpoena days. We obviously -- when I
15 say "we," it was either myself or people in the firm
16 or Vinson & Elkins -- in trying to discover where
17 various files were, one of the things that came up
18 early on was that, when some of Hillary's files,
19 personal files had been maintained in the firm.

20 Q When was this exactly?

21 A This was apparently when Ms. Clinton moved,
22 somebody was actually going to move into her office,

1 so a lot of her personal matters were just boxed up
2 and moved into a conference room on the third floor
3 of our building. And someone, I think her secretary
4 frankly, before she left, had made sort of an index
5 of those files. Some of those personal files had
6 been shipped up to her, sometime --

7 Q In Washington?

8 A In Washington, yes.

9 Q Do you recall when that was?

10 A I think, I want to say, like, July.

11 Q Of 1993?

12 A Of 1993.

13 Q Do you remember exactly when in July of
14 1993?

15 A I sure don't.

16 Q Do you remember if it was before or after
17 Mr. Foster's death?

18 A It would have been before Mr. Foster's
19 death, because one of the reasons they weren't all
20 shipped up, Amy Stewart was sort of overseeing that
21 project and Amy was very busy during that time
22 period, and frankly, she said she would have

1 submitted the rest of them but she just never got
2 around to it.

3 And so in January, or when we are first
4 started getting subpoenas, Amy came to me and said
5 I've got these files, what should I do with them. We
6 locked them up and --

7 Q What were the files that you locked up?

8 A They were mostly files relating to the
9 Children's Defense Fund. Mrs. Clinton had done a lot
10 of work on education reform in Arkansas, a bunch of
11 files on education reform. That sort of thing.

12 Q Any client files?

13 A There were not any client files, no.

14 Q Okay. So you feel there had been some
15 documents that had been shipped to the White House
16 prior to Foster's death in July?

17 A Right.

18 Q And then after Foster died, there were some
19 boxes still at the office?

20 A Correct.

21 Q And you put those -- you stored them
22 separately?

1 A Correct.

2 Q Approximately how many boxes were left?

3 A I don't know. Maybe -- I would say one or
4 two lateral files, something like that.

5 Q Do you have any understanding as to how
6 many boxes were shipped to the White House?

7 A No, I don't.

8 Q Do you know if it was more than one or two
9 lateral files? Do you know if there were any client
10 files contained in those files?

11 A No, there were not.

12 Q Do you know whether any records relating to
13 the Clintons' Whitewater development were shipped?

14 A They were not, no.

15 Q Do you know where the Clintons maintained
16 their files with regard to Whitewater Investment
17 Corporation during the period 1980 through '94?

18 A The only information I have is that, during
19 the work in 1991, Bill Kennedy may have had some
20 records relating to Whitewater Development. What
21 they were, I don't know.

22 Q And those would have been maintained at the

1 Rose Law Firm?

2 A Yes.

3 Q And do you know, were those files
4 subsequently removed from the Rose Law Firm?

5 A Yes.

6 Q Do you know when that occurred?

7 A I believe it was in February or March of
8 1992.

9 Q Do you know the circumstances under which
10 those files were removed from the Rose Law Firm?

11 A Not exactly. It is my understanding that
12 they were going to be reviewed at or about the time
13 that The New York Times article was coming out, until
14 someone -- I don't know who did it -- took them over
15 to the campaign so they could remove them.

16 Q Do you have any understanding who might
17 have removed them from the Rose Law Firm?

18 A I don't know.

19 Q Do you have any understanding as to
20 approximately how many documents that would have
21 been?

22 A Personal knowledge, no, I don't know.

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1 Q After the removal of those files in early
2 1992, there would not have been any other Whitewater
3 files within the confines of the Rose Law Firm?

4 A Not to my knowledge.

5 Q And you have attempted to ascertain whether
6 such files exist?

7 A From the people still at the firm.

8 Q You made no attempt to talk to Mrs. Clinton
9 about those files?

10 A None, Vince nor Web.

11 Q Or counsel?

12 A No.

13 Q Who did you speak to at the firm about
14 those Whitewater files?

15 A Again, during this period of time, we were
16 intentionally, very much having no contact with
17 anybody in the administration.

18 MR. ATKINS: Let me interrupt. For what
19 period of time?

20 THE WITNESS: This is 1994, because we
21 didn't want to be accused in any way of cooperating
22 or being accused of anything improper.

1 So literally we were -- anything we were
2 finding out was wasted upon our own investigation.
3 One of the earliest things we did was to back up all
4 of our computer information on disk.

5 BY MR. GIUFFRA:

6 Q When was that?

7 A This would have been early -- January and
8 February of 1994. I asked all of our secretaries to
9 go back and check any indexes that we had. And we
10 gave them a list of words, Madison, Whitewater,
11 McDougal, that sort of thing, including for people
12 who had left the firm. One of our secretaries found
13 a document labeled Whitewater in one of the old
14 libraries, a paralegal, and I asked her to print
15 those out. And those were -- I think they have been
16 produced. I know they were produced. Little grids
17 showing the lots of properties.

18 Q What was the name of the paralegal?

19 A Sue Jones, Sue Cathey-Jones actually.

20 Q Did she work for Mrs. Clinton?

21 A No, she works for Bill Kennedy. And so
22 that's the first information that we had that we had

1 anything at all related -- at that point we had
2 already searched all of our hard files and we knew we
3 didn't have any hard copies of anything.

4 And so that's the first information that I
5 had that we had any files whatsoever relating to
6 Whitewater.

7 Q Let me ask you a question about your
8 computer system. Let's say between the period --
9 strike that.

10 Between '85 and '94, have you had a number
11 of computer systems?

12 A Two.

13 Q Two? What was the first computer system
14 you had?

15 A Beginning in the early '80s, we had a Wang
16 system, and we went to a more of an IBM PC-based
17 system in '92.

18 Q Do you recall when in '92?

19 A No, I don't. It would have been early '92.

20 Q Was the Wang system a big mainframe system?

21 A Yes.

22 Q Were there large tapes that maintained the

1 information?

2 A Yes -- well, large tapes for the accounting
3 system, yes. For the word processing documents, we
4 kept that on floppies.

5 Q Were the floppies stored any place or just
6 individual attorneys had them?

7 A No, they were stored in a common location.

8 Q And how long did you retain the floppies?

9 A As far as I know, we still have almost all
10 of those.

11 Q Has any attempt been made to look through
12 those floppies for documents relating to the usual
13 suspects, Madison, Whitewater, Jim McDougal?

14 A Yes. The floppies themselves are no longer
15 readable without great difficulty. We maintain hard
16 copies of the libraries so we searched the libraries
17 for those documents. We identified a few -- I am not
18 sure we identified any early on having to do with
19 Whitewater. We did have some on some of the other
20 things that were on the subpoena by the independent
21 counsel. And so, going through somebody in New York
22 or something, we were able to pull some of those

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1 documents off the floppies.

2 Q By using high-tech technology?

3 A Some cubbyhole in New York still has a Wang
4 system that works. I don't know how it works.

5 Q Our committee has had experience with
6 removing documents off of disks. Did you attempt to
7 use a sophisticated program to pull off a program
8 that perhaps had been deleted from those disks?

9 A No.

10 Q Are the disks presently in the possession
11 of the law firm or the independent counsel?

12 A The disks themselves are still in our
13 system.

14 Q You don't know whether independent counsel
15 used a sophisticated system --

16 A Obviously the disks contained a lot of
17 information that was privileged and we tried to pull
18 off what we could.

19 Q So everything that would have been on those
20 disks relevant to our investigation has been turned
21 over to us?

22 MR. ATKINS: Yes, although I think most of

1 the documents that have been pulled off those disks
2 that were found were ones relating to the Frost
3 litigation, which you and I agreed that you did not
4 want.

5 THE WITNESS: Well, the only thing is, the
6 option.

7 MR. ATKINS: One of the documents we
8 produced to you this morning was the library -- the
9 option was the library for the disk option?

10 THE WITNESS: We were attempting to read
11 that.

12 BY MR. GIUFFRA:

13 Q RS 2373. This is a -- take this across the
14 top. I understand the G is Mrs. Clinton's
15 identification code?

16 A Library, yes. Identification.

17 Q Was it the 19 G or just the G?

18 A Just the G.

19 Q And option is the document?

20 A Name.

21 Q Madison Guaranty is the client?

22 A Client.

1 Q Clinton is the person who inputted the
2 document or secretary?

3 A Clinton -- really the G means it is her
4 library.

5 Q Her computer library. Does that mean her
6 secretary -- this would have been --

7 A This name is the person who actually
8 created the document.

9 Q Who is that?

10 A Jamie Chatham. She was a word processing
11 operator. She was not a secretary. During those
12 years we had a word processing center.

13 Q If somebody wanted something typed up, they
14 would bring it to the word processing center and it
15 would be typed up?

16 A Or dictated or marked up form.

17 Q The G indicated the person who initially
18 prepared the document was Mrs. Clinton?

19 A I guess that's likely. It doesn't have to
20 be that way. It could have been -- an associate
21 could have been doing work for a partner or something
22 like that. And it could have been put in her

1 library.

2 Q Would the associate have their own
3 libraries?

4 A Typically they did, yes.

5 Q Unless an associate made a judgment not to
6 use their own library but to use a partner's
7 library --

8 A But it wouldn't have been in the judgment
9 of the associate, it would have been in the judgment
10 of the word processing operator, where to actually
11 put that.

12 Q When did you discover this option
13 agreement?

14 A We had no information about this option
15 agreement until approximately a month ago, when the
16 people at Pillsbury Madison wanted to interview one
17 of our attorneys. And in the -- before the interview
18 they sent us just a bound copy of several documents
19 they wanted to ask him about. Almost -- every one of
20 them which we had seen before, other than this --
21 there were two copies of the option agreement that we
22 had not seen before.

1 Q And how did Pillsbury have additional
2 copies of the option agreement?

3 A I don't know.

4 Q Did they have the disks?

5 A No. These were originals, signed copies.

6 Q What is the genesis of this particular
7 document bearing Bates number RS 2373?

8 A That's from the record copies of our Wang
9 indexes.

10 MR. ATKINS: May I ask this gentleman to
11 identify himself.

12 MR. BEN-VENISTE: Richard Ben-Veniste.

13 MR. ATKINS: Thank you.

14 BY MR. GIUFFRA:

15 Q It says on this document "from disk 0006
16 G." What does that refer to?

17 A That's just how the floppy disks are
18 indexed, so it can be found.

19 Q Does the 190 G on the upper right-hand
20 corner have any significance?

21 A That's the document number.

22 Q So would Mrs. Clinton have had a number of

1 computer disks that were assigned to her?

2 A Well, when a document is created in the
3 system -- I mean, obviously the system only has so
4 much capacity, and so every so often the documents
5 are cleaned out and downloaded onto floppies for
6 storage.

7 And so on that disk should be contained
8 document 190, or I think it is 190 G, before that
9 would be 189 G, and after that it would be 191 G.

10 Q But there may be additional disks that
11 would be --

12 A I am sure there are, yes.

13 Q Would an individual lawyer have a disk that
14 was assigned to that lawyer?

15 A I don't know the answer. I think that they
16 archived that by library, so I think all of
17 Mrs. Clinton's documents and all of my documents
18 would have been on a disk, at least to the capacity
19 of that disk, and they would fill somebody else's
20 up. But I don't know, they could be a mixture.

21 Q Is it possible to date the creation of this
22 document, this option document by looking at the

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1 number 190 G?

2 A No. No. I mean, not specifically.

3 Q An effort has been made to look through all
4 the various indices of these disks to determine
5 whether there would be additional Madison Guaranty,
6 Whitewater documents?

7 A Yes, right.

8 Q Let's talk about the computer, the
9 maintenance of the computer records for the
10 accounting records. Those were maintained on the
11 larger tapes?

12 A Correct.

13 Q Are those tapes still in existence for the
14 period '85, '86?

15 A No.

16 Q When were those tapes discarded?

17 A Well, for the accounting records, we backed
18 up accounting daily. And on the Wang system, you had
19 these big what they call disk packs, they really were
20 these big disks (indicating). And the procedure
21 throughout the period, all through the '80s up until
22 1992, was we basically kept a 90-day backup.

1 So on any certain date, we would back up
2 the accounting system. It would be put on a big
3 tape. It would go into the system, and so we would
4 have 90 days backup. When the next day was used, we
5 would take the end of the tape, pull it and reuse
6 it. So that there was -- we would continually have
7 the backup for any 90-day period.

8 In 1992, when we converted the system, we
9 backed up everything one last time. And we still
10 maintain those tapes, but those are the only tapes we
11 do maintain.

12 Q How far back do those tapes go, the ones
13 that have been maintained when you changed over from
14 the Wang to the IBM PC system?

15 A Well, when you say how far they go back,
16 when we backed them up, we backed up everything on
17 the system as of that time.

18 Q Only 90 days back, or would it have been
19 stuff that was created in 1985, 1986?

20 A Theoretically.

21 MR. ATKINS: Let me interrupt here. Do you
22 mean that the information that would have been on the

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1 computer and backed up at that time?

2 BY MR. GIUFFRA:

3 Q My question is, the material that was
4 created in '85, '86, okay, the accounting
5 information, was that material in any way backed up
6 when you changed over from the Wang system to the IBM
7 system and kept someplace in the Rose Law Firm?

8 A Only to the extent it then existed on the
9 system.

10 Q Why would it -- okay. What was the --
11 strike that.

12 Now, if information was created and put on
13 the accounting information for '85, '86, at some
14 point would that information have been deleted from
15 the computer system?

16 A Yes.

17 Q When would that have occurred?

18 A When it was billed.

19 Q And assuming the bill was paid?

20 A As soon as the final -- what would have
21 been on the system would have been whatever the form
22 of the bill was or the line item time entries, the

1 billing memos.

2 As soon as the final bill is printed, they
3 print out what they call a BAT, a bill audit trail,
4 which is the billing memo also. And at that point,
5 under the Wang system, and in fact under our current
6 system, that information is purged from the
7 accounting records, and the only copy you have at
8 this point is the hard copy.

9 Q When would have been the last bill sent by
10 Rose to Madison?

11 A According to our fee credit reports, there
12 was a fee credit received in '87, so I assume a bill
13 would have been sent in '87.

14 Q So the system would have been purged of all
15 Madison bills as of that point?

16 A It would have been purged as of the time --
17 in the system as of that time.

18 Q Has any attempt been made by the Rose Law
19 Firm to determine whether you could use a
20 sophisticated computer program to retrieve
21 information that had been purged from the Wang tapes?

22 A We have offered to -- we have told the

1 independent counsel about these Wang disks. We have
2 offered to, if they want to pay for it, to make them
3 available -- though we will have to supervise it
4 because, obviously, you will have a significant
5 amount of privileged information on it -- to go
6 through and try to search those documents, those
7 disks to see if there is any relevant information on
8 them.

9 Q As far as you know that has not been done?

10 A It has not been done.

11 Q Bill audit trails, are they different from
12 the billing memos that are prepared?

13 A Yes.

14 Q What is a bill audit trail?

15 A A bill audit trail is simply a summary of
16 the bills sent and the receipts collected from that
17 client. So there is no specific information as far
18 as what the time was -- the bill was submitted on
19 this day and paid on such and such a date. It is a
20 summary document.

21 Q Okay. Turn to another subject. During the
22 period 1985, '86, how was compensation of partners

1 determined at the Rose Law Firm?

2 A We are generally compensated on a five-year
3 moving average. So, for the fiscal year-end being
4 January 31, 1986, we will say, at the beginning of
5 that year, that partner would have known what their
6 percentage of the firm distribution would be for the
7 year. And that percentage would be -- was an average
8 of the five yearly percentages assigned to that
9 attorney for the prior five years.

10 Q And what factors would go into determining
11 what the yearly percentage for a partner would be?

12 MR. BEN-VENISTE: The question has no
13 relevance.

14 MR. GIUFFRA: Mr. Ben-Veniste, one of the
15 issues -- strike that.

16 Are you both going to be objecting?

17 MR. BEN-VENISTE: I am not objecting. I am
18 asking a question about the relevance when we get
19 into the compensation of partners.

20 MR. GIUFFRA: It is relevant to
21 ascertaining what benefits Mrs. Clinton received from
22 the Rose Firm's representation of Madison Guaranty.

1 MR. BEN-VENISTE: Relevant to what?

2 MR. GIUFFRA: Relevant to -- and I don't
3 want to spend much time on this --

4 MR. BEN-VENISTE: Explaining it to me or on
5 going into it?

6 MR. GIUFFRA: Explaining it to you, Section
7 1(b)(A), (3)(A) of the resolution. What's the
8 pending question?

9 MR. BEN-VENISTE: I don't see any
10 relevance. If we are trying to conserve our
11 resources here, I wondered why it is that we are
12 going into the compensation of the Rose Law Firm
13 partners 10 years ago.

14 MR. GIUFFRA: Just read the question
15 (The reporter read the record as requested.)

16 THE WITNESS: That partner's level of
17 production, participation in management, assistance
18 in recruiting, overseeing associates, bringing in new
19 business, all those are factors.

20 BY MR. GIUFFRA:

21 Q Who made the determination of what a
22 partner's yearly percentage would be?

1 A The executive committee made
2 recommendations to the firm. What time period are
3 you asking about now?

4 Q '85, '86.

5 A '85, '86. The primary factor at that time
6 would have been strictly production. And there would
7 have been adjustments to those numbers, based upon
8 some of these other factors, which would have been
9 recommended by the executive committee and voted on
10 by the firm.

11 Q Now, when you say "strictly production,"
12 what do you mean by that?

13 A Fee credits.

14 Q And would fee credits be determined on the
15 matters -- be based on the matters that a partner
16 billed?

17 A The matters that a partner worked on.

18 Q Worked on. Would there be a
19 differentiation between worked on versus being the
20 billing partner?

21 A Oh, sure. You will get fee credits on any
22 matter you worked on, whether you billed it or

1 someone else billed it.

2 Q That would just be your time?

3 A Right --

4 Q So --

5 A -- for the most part.

6 Q -- if you billed 10 hours that would be
7 calculated into your production?

8 A Generally speaking, that's right.

9 Q And what about if you were the billing
10 partner on a matter and others performed the work on
11 that matter?

12 A Then, unless you could justify some
13 supervisory fee or something like that, then you
14 know, the fee credits would go to the partners doing
15 the work.

16 Q If a matter was staffed with a partner and
17 an associate, and the associate did 60 percent of the
18 work and the partner did 40 percent of the work, and
19 the matter was billed at, say, \$10,000, what fee
20 credit would the partner receive for that matter?

21 MR. ATKINS: Bob, I hate to interrupt. I
22 guess for purposes of your assumptions here, are you

1 assuming they are at the same billing rate when you
2 say 40 percent of the work and 60 percent of the
3 work?

4 MR. GIUFFRA: No, I am not making that
5 assumption. Let me rephrase the question.

6 BY MR. GIUFFRA:

7 Q If a partner and an associate worked on a
8 matter, would the partner get fee credit for all the
9 time spent by the associate on that matter?

10 MR. BEN-VENISTE: Are you talking about 10
11 years ago or are you talking about now?

12 MR. GIUFFRA: 1985, 1986, Richard.

13 THE WITNESS: Fee credits were used as a
14 measure of productivity. It had nothing to do with
15 money out the door. It was pretty much up to the
16 discretion of the billing attorney as to what they
17 did with fee credits. So, for example, if an
18 associate had \$2000 worth of time on a matter that we
19 billed for \$4000, but did an exceptional job, the
20 billing attorney had every right to give that fee
21 credit -- more fee credit than they deserved. Or if
22 an associate --

1 Q Did the fee credit go to the associate or
2 to the partner?

3 A It went to both. It went to both. We
4 didn't -- we don't use fee credits for associates,
5 for compensating associates but they receive -- they
6 did get fee credits. On the same token, if an
7 associate, you know, did two hours' worth of work and
8 the partner didn't think they -- didn't like the work
9 they might not give the associate any fee credits for
10 that matter. It was within the discretion of the
11 billing attorney as to how those fee credits were
12 allocated.

13 Q So that if a matter was billed at, say,
14 \$10,000, would the \$10,000 be -- and the partner and
15 associate worked on the matter, would the \$10,000 be
16 allocated in terms of fee credits between the partner
17 and the associate?

18 A Yes.

19 Q So maybe 8000 would go to the partner and
20 2000 to the associate?

21 A That's possible, yes.

22 Q The compensation of both the partner and

1 the associate would be based on the fee credits?

2 A In a very indirect way, yes.

3 Q What do you mean by "very indirect way"?

4 A Well, I mean, a particular fee credit on a
5 matter meant that that was one level of productivity
6 in addition to looking at some of these other things,
7 bringing in new business, the number of hours the
8 partner put in that year. And so at some point
9 during the year, when these recommendations were
10 made, we would -- we tried to convert everything we
11 do into fee credits, just as a matter of -- measure
12 of productivity.

13 So, for example, for firm management they
14 don't pay me for firm management. At the end of the
15 year I get fee credits. I wouldn't actually bill
16 anybody for that, it is just made up money. And at
17 the end of the year, I compare my fee credits to
18 somebody else's fee credits, and my percentage is 2
19 and theirs is 1, and that's my percentage for the
20 year.

21 Q Do you know what percentage -- strike
22 that.

1 Do you know the amount of fees that the
2 firm billed Madison Guaranty during the period '85,
3 '86, '87?

4 A Based upon the fee credit reports, it's --
5 for '85, '86, it was approximately a little over
6 18,000, and I think we had a \$500 fee credit in '87,
7 so still something short of \$19,000 in fees.

8 Q Were any fees billed in '84?

9 A We have no record of one.

10 Q Do you have any records indicating a fee
11 credit that Mrs. Clinton received for this \$18,500
12 billed?

13 A Same -- whatever that sheet reports,
14 something around 7- or 8000. The summary.

15 Q I show you a document bears Bates number
16 RLF 203030. Could you provide for the record an
17 explanation of how this document was prepared.

18 MR. KRAVITZ: Can I see it for a minute. I
19 think I have the same document with another number on
20 it.

21 THE WITNESS: This document was created
22 sometime in November of 1993. This relates back to

1 something that I mentioned earlier, that we were
2 beginning to get press calls. I was trying to
3 determine who had done what for Madison.

4 We had made a quick review of any bills we
5 had inside the building, which there were none at
6 that point. Didn't surprise me. I assumed we didn't
7 have any. So I asked my office manager to go pull
8 the fee credit reports. I actually gave her a copy
9 of my fee credit reports and she prepared this
10 summary.

11 BY MR. GIUFFRA:

12 Q Now, if I could direct your attention to
13 the first pages of this document, it indicates that
14 there were no fees credited for the period August
15 1985.

16 A Correct.

17 Q And we have received evidence indicating
18 that the firm did some work -- strike that.

19 Are you aware of the fact that the firm did
20 some work in August of 1985 for Madison Guaranty?

21 A Yes.

22 Q What work are you aware the firm did in

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1 August of 1985 for Madison Guaranty?

2 A I believe that was the approximate time
3 frame that we were doing some work on the acquisition
4 of the IDC property.

5 Q The Castle Grande transaction?

6 A Right.

7 Q And do you have any understanding as to why
8 the work that was performed in August of 1985 was not
9 reflected on this recap?

10 A Well, this recap is not a reflection of
11 when the work was performed; it was a reflection of
12 when the fee was collected for the work.

13 Q Fee collected as opposed to being billed?

14 A Collected.

15 Q What information was used to prepare this
16 document, this final recap?

17 A Our monthly fee credit reports.

18 Q Now, let's turn to the first entry, May
19 1985, it says "Clinton Madison Guaranty 840." Would
20 that reflect the amount of time that Mrs. Clinton
21 worked on Madison Guaranty matters, the 840 number?

22 A It reflects the amount of fee credits she

1 received on the bill.

2 Q Okay. Is there a correlation between fee
3 credit and hours billed?

4 A In most instances there is a correlation,
5 yes.

6 Q Is it a direct correlation?

7 A No.

8 Q The allocation of the fee credits, for
9 example, for May 1985, those would have been done by
10 the billing partner?

11 A Yes.

12 Q In this case Mrs. Clinton?

13 A I believe on these matters Mrs. Clinton was
14 the billing partner, yes.

15 Q What does it mean to be a billing partner
16 at the Rose Law Firm?

17 MR. KRAVITZ: You mean back in 1985?

18 BY MR. GIUFFRA:

19 Q 1985-'86.

20 A It just means that's the person that's
21 responsible for seeing that the client is billed.
22 They will be the one that will obtain the billing

1 memo, mark it up, send the clients the bill.

2 Q Does being the billing partner mean that a
3 partner has certain supervisory responsibilities for
4 the associate work?

5 A Not in all cases, no.

6 Q Based on your knowledge, in '85, '86, would
7 the procedures in place whereby if an associate, for
8 example, sent a letter to a client or to a government
9 agency, that associate had to run the letter by a
10 partner for review?

11 A No, not in all cases.

12 Q What would be the reasons? When would an
13 associate require the review of a partner and when
14 could an associate just send the letter out?

15 A There were no fixed rules. If an associate
16 received the matter, on its own, I mean, it would be
17 within the associate's judgment as to whether he
18 needed to run it by a partner or not. If a partner
19 had given the matter to the associate, it was a
20 question of whether the associate had asked them to
21 run it by them before they sent it on.

22 Q If a correspondence was signed the Rose Law

1 Firm rather than by an individual lawyer, would that
2 have had to have been reviewed by a partner prior to
3 the signature?

4 A Not just general correspondence; an opinion
5 letter would have been signed or approved, not just
6 correspondence.

7 Q Would correspondence with a government
8 agency signed the Rose Law Firm, would that have had
9 to have been reviewed by a partner?

10 A No, not necessarily.

11 Q Let's turn to July 1985.

12 MR. KRAVITZ: Hey, Bob, is this a good time
13 to take our break?

14 MR. GIUFFRA: Why don't we do it now.
15 That's fine.

16 (Whereupon, at 12:35 p.m., the deposition
17 was recessed, to be reconvened at 1:35 p.m. this same
18 day.)
19
20
21
22

1 AFTERNOON SESSION (1:42 p.m.)

2 Whereupon,

3 RONALD M. CLARK

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as follows:

6 MR. GIUFFRA: Back on the record.

7 EXAMINATION (Continued)

8 BY MR. GIUFFRA:

9 Q Mr. Clark, tell us why the material was
10 available to prepare this recap document.

11 MR. ATKINS: Let me help you. We produced
12 all the backup information to you from the recap, but
13 go ahead.

14 BY MR. GIUFFRA:

15 Q Why was that information still maintained
16 by the law firm?

17 A This was actually prepared from my own
18 copies. Each partner receives a copy of the monthly
19 reports. It just so happened I made partner in
20 February of 1985, and I actually still had my own
21 copies in a box behind my desk.

22 Q You had maintained the fee credit

1 information --
2 A I had --
3 Q -- personally, it wasn't like you got it
4 off the computer system?
5 A It was my hard copy I used.
6 Q With regard to --
7 MS. FISHER: I'm sorry, that started in
8 February 1985, that you started getting these?
9 THE WITNESS: Yes, I started getting them
10 in February 1985.
11 MS. FISHER: Were you able to locate any
12 prior to February 1985?
13 THE WITNESS: Yes.
14 BY MR. GIUFFRA:
15 Q From other partners?
16 A From other partners.
17 Q So you were able to get a fairly
18 complete --
19 A Right, I did not have '83 and '84, but I
20 obtained them.
21 Q For example, let's turn to the second page
22 of this document, January '86. There is an entry, it

1 says "Clinton Madison Guaranty stock offering in IDC
2 \$2731.25." Now, that's her allocation of her fee
3 credit for the matter stock offering in IDC, for the
4 Madison Guaranty client; right?
5 A Right.
6 Q Now, based on what you have told us this
7 morning, the 2731.25 figure, that may not reflect her
8 hours billed times her hourly rate?
9 A That's correct.
10 Q So she may well have been taking time of
11 other people working on the matter and allocating it
12 to herself, in terms of giving herself a fee credit?
13 A Or giving time that she was entitled to to
14 other people.
15 Q So it could be going in either direction?
16 A It could be going in either direction.
17 Q Now, if Mrs. Clinton -- by virtue of the
18 fact that Mrs. Clinton was the billing partner, did
19 she get additional fee credits for Madison work?
20 A Not as a matter of policy, no.
21 Q It would all be based on the fee credit
22 information?

1 A That's correct.

2 Q The advantage of being the billing partner
3 is you can allocate the fee credit; right?

4 A That's -- I wouldn't call it an advantage.
5 If's a fact that she allocates fee -- the billing
6 partner allocates fee credit.

7 Q So like, for example, in May of 1986, there
8 is \$112.50 allocated to Mr. Massey, \$48 to
9 Mr. Arnold, and the rest of it is to Mrs. Clinton.
10 It is possible that Massey and Arnold could have been
11 doing most of the work during that period for Madison
12 Guaranty?

13 A Well, I mean, in the realm of anything is
14 possible, yes, it is possible.

15 Q But your view would be that this would
16 actually more likely than not reflect her actual --

17 A Generally speaking, it should reflect her
18 work within some range of --

19 Q Of time?

20 A Of variance, yes.

21 Q Okay. So the information, fee credit
22 information, there is a connection between fee credit

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1 information and hours billed?

2 A Yes.

3 Q Can you give us any rough estimate of what
4 the correlation between the two would be?

5 A Not on any particular matter.

6 Q In terms of billing and -- strike that.

7 In terms of -- did you base it on
8 partnership units or just -- strike that.

9 In terms of compensation of partners, was
10 it based on partnership units or just this fee credit
11 information in '85 and '86?

12 A It was your assigned -- you were assigned a
13 percentage and that percentage was the average of the
14 five yearly percentages you had been assigned and how
15 we assigned the yearly percentages, one of which was
16 production.

17 Q In that time, '85, '86, it was strictly
18 production on which that was based?

19 A Not strictly but primarily. Management,
20 for example, we did compensate.

21 Q Would Mrs. Clinton get any extra percentage
22 because of the fact that she was the billing partner,

1 other than through the fee credit information?

2 A No.

3 MR. ATKINS: This is '85, '86.

4 THE WITNESS: No.

5 BY MR. GIUFFRA:

6 Q Did you get any percentage of credit
7 because you were the person that brought the client
8 in?

9 A No.

10 Q So this was a system that really
11 compensated people who worked hours?

12 A Ultimately, yes. Ultimately, our -- the
13 biggest element of our compensation system was to
14 reward productivity.

15 Q Meaning hours billed?

16 A Meaning fees collected.

17 Q There is a difference between fees
18 collected and hours billed.

19 I mean, if someone was just a pure
20 rainmaker and brought in a lot of clients but did not
21 do much work themselves, how would that be reflected
22 in their compensation?

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1 A Well, again, it depends on strictly the
2 matter. I mean, just to pull an example out of the
3 air, if we had a very sophisticated securities matter
4 where we were rendering, for example, an opinion, a
5 10(b)(5) opinion, we might only have 10 hours of work
6 but we might charge \$40,000 for that opinion. I
7 mean, that is a negotiation between you and your
8 client.

9 And so the person who brought that work in
10 might receive some of that credit, the fee credit,
11 even though they may not actually have done the
12 work. But if you look at the billing memo, you would
13 only see 10 hours -- well, 50,000 divided by 10 hours
14 is a pretty strong hourly rate, so that's why I say,
15 generally speaking, it was tied to the work you'd
16 done. But if you were able to bring in those type
17 matters, you might not actually have that many hours,
18 but still have a significant amount of fee credit, or
19 a contingency fee case in litigation, for example.

20 Q What about a situation where you brought in
21 a matter, the bulk of the hours were done by an
22 associate, you did very little of the work other than

1 some supervision, was the system set up that you
2 would get compensated for that at the year end?

3 A No, not in any significant manner.

4 Q Was an attorney -- did an attorney get fee
5 credit when the work was done, or when it was billed,
6 or when it was paid?

7 A Generally speaking -- not always, but
8 generally speaking -- allocations are made when the
9 bill is produced, so when the billing memo goes down
10 to accounting, the attorney makes the allocations at
11 that point.

12 Now, you don't actually receive the
13 allocation, they don't go in the monthly report until
14 the fee is collected. If it is never collected, you
15 never get the credit.

16 Q So that means that ultimately -- strike
17 that.

18 I am a little confused. At the time you
19 bill the client, you get a fee credit, but then it
20 might get deducted later on if the client doesn't
21 pay?

22 A No. At the time -- generally speaking, you

1 didn't have to do this, but generally speaking, when
2 a bill was produced to be ready to mail to a client,
3 the attorney would indicate on the billing memo how
4 allocations were to be made, that would just be
5 handwritten, or typed, something. That would never
6 be acted upon until the money was actually received.

7 Q Okay, I understand.

8 Just a couple more questions with regard to
9 transmission of documents out of the Rose Firm. Are
10 you aware of how Mr. Hubbell may have removed
11 documents or client files from the firm before he
12 left?

13 A No.

14 Q Are you aware of whether or how Mr. Foster
15 may have removed client files?

16 A No.

17 Q Have you done any investigation to
18 determine whether there were any shipments of
19 documents to Mr. Hubbell during 1993 --

20 A 1993.

21 Q -- from the firm?

22 A Investigations to the extent that we have

1 asked if anybody recalls shipping any documents, and
2 the answer is no.

3 Q Anyone recall shipping any documents to
4 Mr. Foster during 1993?

5 A No.

6 Q With regard to Mrs. Clinton --

7 A The ones I talked about.

8 Q The ones you talked about.

9 Was a procedure set up during the 1980s and
10 up through 1992 whereby Mrs. Clinton would not
11 receive funds generated by the firm from its
12 representation of clients before Arkansas state
13 agencies?

14 A No. It was for fees received for
15 representing state agencies, not representing clients
16 from state agencies.

17 Q So if a fee came in for representing the
18 state of Arkansas --

19 A Or an agency.

20 Q -- or an agency of the state of Arkansas,
21 she would not receive any of -- those fees would not
22 be credited to her?

1 A We actually backed -- we actually backed
2 out the fees to determine what her compensation was.

3 Q Would that include ADFA?

4 A Yes.

5 Q But if the firm represented a client before
6 a state agency she would receive fees?

7 A If it was a private client, yes.

8 Q And do you have any understanding as to
9 whether Mrs. Clinton ever, herself, represented
10 private clients before Arkansas state agencies?

11 A The only information that I have is with
12 respect to the preferred stock offering.

13 Q And that has to do with Madison Guaranty?

14 A Right.

15 Q Were any procedures put in place to insure
16 that Mrs. Clinton did not represent private clients
17 before Arkansas state agencies?

18 A No.

19 Q When did the Rose Firm start backing out
20 fees received from state agencies from Mrs. Clinton's
21 compensation?

22 A It was sometime in the mid-'80s, done at

1 Hillary's -- well, it would have been done
2 approximately, probably approximately 1982, in
3 response to Hillary's request to do so.

4 Q Do you know the circumstances behind her
5 request?

6 A It had come up in one of the gubernatorial
7 campaigns as an issue, so she asked she not receive
8 any benefit from state fees.

9 Q With regard to Mrs. Clinton's
10 representation of Madison in connection with the
11 issuance of preferred stock before the Arkansas
12 Securities Commission, what information do you have
13 about that representation?

14 A Gee, I don't -- pretty broad question. I
15 mean, I know we did the work. Hillary and Rick were
16 involved, primarily Rick.

17 Q You mean Rick Massey?

18 A Rick Massey, I'm sorry, yes.

19 Q What is your understanding of what services
20 Mrs. Clinton performed in connection with the Madison
21 preferred stock matter?

22 A As far as I know, she had some meetings

1 with the principals.

2 Q Meaning Mr. McDougal?

3 A Mr. McDougal.

4 Q Anyone else?

5 A Possibly Mr. Latham.

6 Q He was the president of Madison?

7 A I don't know what his title was. She
8 reviewed some of Rick's work, I think. That's pretty
9 much what I know.

10 Q Do you know whether she ever spoke to
11 Ms. Schaffer, who was the securities commissioner?

12 A I think there is a time entry that says
13 that she had a conversation with Ms. Schaffer, yes.

14 Q Did Mr. Massey indicate to you that
15 Ms. Clinton had spoken to Ms. Schaffer?

16 A He did not indicate one way or the other,
17 no.

18 MR. ATKINS: Let me clarify things here.

19 Would you describe for them time entries on
20 what you are referring to.

21 THE WITNESS: On a bill shown to me by the
22 independent counsel.

1 BY MR. GIUFFRA:

2 Q Was that a bill that was produced by the
3 Rose Law Firm?

4 A No.

5 Q This was -- this would be one of the copies
6 that had gone out, the first copy of the bill?

7 A Yes.

8 Q And that would have gone to the client --

9 A Yes.

10 Q -- presumably, which would be Madison?

11 A Correct.

12 Q You don't have a copy of that bill anymore?

13 A I do not.

14 Q The only time you have seen that bill was
15 when it was shown to you by the independent counsel?

16 A Yes.

17 Q Do you recall the date of the bill?

18 A I believe it was -- I don't recall the
19 date, I'm sorry. It was a 1985 billing.

20 Q What else do you recall being contained on
21 that bill?

22 A I was shown a copy of it. There were a

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1 couple of entries by Mrs. Clinton on a meeting with
2 Mr. McDougal and I think Mr. Latham, but I don't
3 recall. There was an entry on reviewing some papers
4 that Rick had drafted. There were entries by Rick on
5 a couple of conferences he had had with some of the
6 internal attorneys on securities matters, and
7 research entries, you know, researching preferred
8 stock issues.

9 Q What did it say about Mrs. Clinton?

10 A I don't recall specifically. I was only
11 shown it for about a minute and a half. I mean, I do
12 recall the conference; I recall the entry on --

13 Q Teleconference with --

14 A No, it just said conference.

15 Q Conference with Beverly --

16 A It said telephone conference with
17 Mrs. Schaffer, I believe. It just said conference
18 with Mr. McDougal, and I think it was Mr. Latham but
19 I am not sure. And then it had some entries on there
20 for Rick.

21 Q Since this was an actual bill, did it
22 contain the amount of time that was spent by

1 Mrs. Clinton with regard to that telephone call?

2 A It did not contain the amount of time; it
3 contained a description of the activities.

4 Q Which would be standard in one of your
5 bills?

6 A It is one of the alternative billing
7 formats, yes.

8 Q Let me show you a bill dated January 30,
9 1986 to Madison Guaranty.

10 MR. KRAVITZ: Do you have a Bates number?

11 MR. GIUFFRA: No, it doesn't have a Bates
12 number on it.

13 MR. KRAVITZ: Can I see that then?
14 Thanks.

15 BY MR. GIUFFRA:

16 Q This bill doesn't separate out who
17 performed various services; it just talks about
18 conferences with and then lists a bunch of people.
19 How was the bill that you were shown by the
20 independent counsel different?

21 A Well, I was shown two bills by the
22 independent counsel. One was in this form and one

1 was in a slightly different form, where it had the
2 name of the attorney and the description of the time
3 performed -- of the work performed.

4 Q By each attorney?

5 A By each attorney, yes.

6 Q Is that a standard form bill you would have
7 been sending out in the period 1985?

8 A Both of these would have been standard,
9 standard forms.

10 Q You would have sent the clients two types
11 of bills, one the general bill listing the types of
12 services the firm performed, and one specifically
13 listing the services performed by an individual
14 attorney?

15 A No, you had various billing formats
16 available, one was the narrative format which is what
17 we call the general description. One would have just
18 the time entries of the clients. One would have time
19 entries plus the time spent. One would have time
20 entries plus time spent plus hourly rate. It
21 depended on the client and the billing attorney.

22 Q For example, here is an invoice dated April

1 24 -- can't tell the year.

2 MS. FISHER: 1990.

3 BY MR. GIUFFRA:

4 Q 1990 to the FDIC?

5 MR. KRAVITZ: I need, for purposes of our
6 record, if you are going to use documents without
7 Bates stamps, I need you to mark them as exhibits.
8 For example, we have several bills regarding Madison
9 dated January 30, 1986. I think the record will be
10 unclear as to which one you have been talking about
11 unless we mark them as exhibits since they don't seem
12 to have Bates numbers.

13 MR. GIUFFRA: We will mark this first one
14 as Exhibit 1 and we will mark this one --

15 MR. KRAVITZ: Just so you are clear, the
16 one you are marking as Exhibit 1 is the January 30,
17 1986 bill we have been discussing?

18 MR. GIUFFRA: Correct. Here is one we will
19 mark Exhibit 2, April 24, 1990 concerning the Frost
20 matter.

21 (Clark Exhibits 1 and 2 identified.)

22 BY MR. GIUFFRA:

1 Q Is that in the format of the first bill you
2 were shown by the independent counsel in which
3 individual attorney time is set forth with
4 activities?

5 A Not in the exact form. The copy that I was
6 shown would have the date, the attorney's name, and
7 the description; it would not have hours or hourly
8 rate.

9 Q What was the second type of bill you saw,
10 you were shown?

11 A It was -- if you have Exhibit 1, it was
12 similar to this.

13 Q Meaning a standard form bill just listing
14 the services without a breakout of the attorneys?

15 A What we refer to as a narrative form.

16 Q What was contained in the narrative of that
17 second bill you were shown?

18 A One of the bills had to do with the -- the
19 preferred stock matter which was more the line item
20 bill, and I believe the other one had to do with the
21 broker-dealer transaction.

22 Q Was this a separate billing time period

1 than the first bill?

2 A My recollection, they were like a month
3 apart.

4 Q And do you recall anything more about what
5 was stated in the second bill?

6 A The narrative form?

7 Q Yes.

8 A No, I sure don't.

9 Q And these were bills to Madison Guaranty?

10 A Yes.

11 Q And the billing partner on both bills is
12 Mrs. Clinton?

13 A To my knowledge, yes.

14 Q Did the second bill indicate anything
15 specifically with regard to the type of work that
16 Mrs. Clinton had performed?

17 A I didn't get to read it that closely. The
18 questions were primarily, like yours, on the form.

19 Q Are you aware of a time in which -- strike
20 that.

21 Do you know on a lawyer by the name of
22 Susan Thomases?

1 A I know her through the newspaper.

2 Q Do you have any understanding if Susan
3 Thomases performed any work for the Rose Law Firm?

4 A For the Rose Firm?

5 Q Correct.

6 A I don't believe she did, no.

7 Q You have no knowledge as to whether she
8 might have worked on any accounting practices for the
9 Rose Firm?

10 A No.

11 Q Let me show you, this is testimony of
12 Mrs. Thomases dated August 8, 1995.

13 MR. ATKINS: What was the date?

14 MR. GIUFFRA: August 8, 1995.

15 BY MR. GIUFFRA:

16 Q I direct your attention to page 15 of her
17 testimony.

18 A Okay.

19 Q You have no knowledge of any work
20 Mrs. Thomases might have performed for Rose in
21 connection with accounting for Mrs. Clinton's income
22 based on her work related to the role of the Rose

1 Firm for state agencies?

2 What is your understanding with regard to
3 how Rose was retained by Madison Guaranty Savings &
4 Loan?

5 A It's my understanding that Rick and another
6 Rose attorney had lunch with John Latham to discuss
7 that work. It is my understanding that Mrs. Clinton
8 had some relationship -- I don't know what it is --
9 or at least knew Mr. McDougal. I know we received
10 the work. I've asked Rick about it. Rick says, you
11 know, what was the precipitating factor, he doesn't
12 know.

13 I mean, I guess McDougal and Latham would
14 know actually why they called us finally, but we
15 don't know exactly what may have precipitated the
16 work.

17 Q Did Mr. Massey indicate to you he had
18 brought in Madison as a client to the Rose Firm?

19 A No.

20 Q What did he tell you with regard to whether
21 he brought Madison in as a client to the Rose Firm?

22 A He said he was definitely trying to obtain

1 Madison's work. He had lunch with Mr. Latham, and
2 that eventually started us doing work, but he doesn't
3 know whether it was his actions, or some actions of
4 Mrs. Clinton, or some third party's action as a
5 result of the work being done.

6 Q Did he indicate Mrs. Clinton had a role in
7 bringing in Madison as a client to the Rose Firm?

8 A I don't think Rick has any knowledge as to
9 whether she had any action or not.

10 Q Now, you are aware Mrs. Clinton has made
11 statements, some sworn -- strike that.

12 Are you aware that Mrs. Clinton has made
13 some statements, some of which are sworn, in which
14 she says Mr. Massey brought Madison in as a client to
15 the Rose Firm?

16 A No.

17 Q Do you have -- have you ever heard any
18 public statements by Mrs. Clinton in which she
19 indicated Mr. Massey brought Madison in as a client
20 to the Rose Firm?

21 A No.

22 Q You have no understanding as to what

1 Mrs. Clinton's version of events are with regard to
2 the bringing in of Madison as a client to the Rose
3 Firm?

4 A The only understanding -- I did watch one
5 of Mr. Hubbell's testimonies before the Senate, where
6 he recounted or tried to recount some testimony that
7 Hillary had given or statement that she had made or
8 something, but that's -- I didn't watch Hillary's
9 press conference.

10 Q You have never talked to Mr. Massey about
11 whether Mrs. Clinton's version of events with regard
12 to retention of the Rose Firm was accurate?

13 A I have talked to Mr. Massey on several
14 occasions about the way the Madison work was
15 obtained. I don't think, neither Rick nor I -- I am
16 not sure Rick watched the press conference either. I
17 am not sure we have ever seen a written statement
18 that we know exactly what Mrs. Clinton's version of
19 the facts are.

20 Q Has he ever indicated any doubt he has with
21 regard to her version of the events with regard to
22 the retention of Rose?

1 A No.

2 Q Have you ever discussed with Mr. Massey
3 anything having to do with the fact that he was only,
4 you know, eight months out of law school when this
5 client came into the firm?

6 A Yes.

7 Q And what explanation does he give for the
8 kind of claim that he brought the client in?

9 A He gives no explanation other than the fact
10 that -- I mean, he was -- he had the lunch, he tried
11 to get the work, and eventually some work came in.
12 He just doesn't -- neither Mr. Latham -- I am not
13 sure Rick ever met Mr. McDougal, but he did know
14 Mr. Latham.

15 Q What was the nature of Mr. Massey's
16 relationship with Mr. Latham?

17 A David Knight, who was one of our securities
18 partners, taught a class in securities law at the
19 University of Arkansas at Little Rock. Rick
20 substituted somewhat for David on those occasions.
21 And Mr. Latham was a student, audited that class at
22 some point, and that's how they got to know each

1 other. And David and Rick were the two that
2 called -- I don't know who called whom first. I
3 assumed they called John Latham first and said let's
4 have lunch.

5 Q But in 1985, Mr. Massey was not an
6 experienced securities lawyer, was he?

7 A He was a first or second year associate.

8 Q He was not an experienced banker?

9 A No.

10 Q Mrs. Clinton was a litigator?

11 A Yes.

12 Q Did she also do any sort of what would be
13 described as corporate work, in the securities
14 banking kind of corporate work?

15 A I mean, I'm fairly certain she did some
16 litigation on those type issues. I don't know -- I
17 just don't know if she did any transactional work.

18 Q Drafting agreements, reviewing drafts?

19 A I don't know.

20 Q Has Mr. Massey ever indicated to you the
21 extent to which Mrs. Clinton supervised his work on
22 the Madison matter during '85 and '86?

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1 A No, we have not discussed that in depth.

2 Q Has he said anything to you about the
3 extent to which Mrs. Clinton supervised his work?

4 A He's acknowledged that he sent copies of
5 correspondence to the Arkansas securities department
6 in filing, and he sent copies of those to
7 Mrs. Clinton.

8 Q Did he indicate to you whether it was his
9 practice to send copies of all documents that he
10 prepared to Mrs. Clinton?

11 A No, he has not indicated that to me.

12 Q Would that be normal practice for a young
13 associate at the Rose Firm to send copies of, for
14 example, correspondence to the billing partner on a
15 matter?

16 A No, not necessarily.

17 Q Do you have any of sort of -- strike that.

18 Did you have a system in 1985 and 1986 for
19 routing documents with regard to a matter to the
20 lawyers who worked on that matter?

21 A No, no system.

22 Q So, for example, if I sent a letter to the

1 Arkansas Securities Commission, I send a copy to the
2 other people who might work on that matter?

3 A No.

4 Q It will be an ad hoc judgment by the person
5 who wrote the letter?

6 A Correct.

7 Q Now, what is your understanding of the
8 nature of the billing arrangement that Madison had
9 with the Rose Law Firm in '85/86?

10 A Based upon the records that we have been
11 able to discover, it looks like at some point there
12 was an agreement that we would receive a retainer of
13 \$2000 a month. At some time, approximately July of
14 1986, that arrangement was terminated, at which time
15 the monthly -- the July check was returned along with
16 approximately \$4600 which had been received in the
17 form of retainers but never had been earned in the
18 form of work.

19 Q So this was not a retainer agreement
20 whereby you would receive the retainer even if you
21 did not perform any work?

22 A That's right, the retainer went in the

1 trust account.

2 Q And it would be --

3 A Taken only --

4 Q -- taken only as work was done?

5 A That's right.

6 Q What do you know about the circumstances
7 under which the Rose Firm terminated this
8 relationship with Madison?

9 A There was some desire at that point to
10 increase the amount of work that we'd done, for -- at
11 that point it was FSLIC. We had handled a case for
12 FSLIC, referred to guarantee on a very successful
13 basis with FSLIC. And we had already heard from the
14 agency, if we had any chance to increase our work, we
15 probably wanted to discontinue any general
16 representation of savings and loans.

17 We had never represented any savings and
18 loans generally, we had only done isolated work for a
19 couple of savings and loans. We were never principal
20 outside counsel for any S&Ls. And so I think there
21 was some discussions then among some of the partners
22 that we probably should discontinue any ongoing

1 relationships with S&Ls. And that's what
2 precipitated the return of that fund.

3 Q Was this a discussion at partnership
4 meetings?

5 A No, I think it was primarily between
6 Mrs. Clinton and the people who were doing the work
7 for the government.

8 Q And do you have any further understanding
9 of the nature of those discussions between
10 Mrs. Clinton and people who wanted to do the
11 government work?

12 A No, just that we were concerned that being
13 on a retainer with the savings and loan could
14 possibly prevent us from accepting additional work
15 from FSLIC, and --

16 Q Do you recall --

17 A -- since we were only doing isolated
18 matters for them in any event, we thought we should
19 discontinue that.

20 Q Do you recall any discussion of the fact
21 that Mr. McDougal had been removed as president -- as
22 chairman of the -- strike that.

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1 Do you recall any discussion of the fact
2 that Mr. McDougal had been removed as president of
3 Madison Financial Corporation in connection with the
4 decision to terminate the relationship with
5 Madison --

6 A Not at that time. I think the partners
7 that were doing the government work had no knowledge
8 of that at that point.

9 Q Did you subsequently learn that that was a
10 factor in the firm's decision to terminate its
11 relationship with Madison?

12 A No, I have learned it was not a factor.

13 Q So it is your understanding that the fact
14 that Mr. McDougal had been removed as president of
15 Madison Financial was not a factor in the firm's
16 decision to terminate its relationship with Madison?

17 A That's correct.

18 Q What's the basis for your understanding
19 that the removal of Mr. McDougal as president of
20 Madison Financial did not have -- was not a factor in
21 the firm's retainer relationship with Madison?

22 A On the basis of the discussions with the

1 people who were involved, they just said they didn't
2 know about it.

3 Q The discussions with regard to terminating
4 the retainer relationship with Madison, were those
5 initiated by Mrs. Clinton, or by the lawyers who
6 wanted to do more FSLIC work?

7 A I do not know.

8 Q I show you a document, RS 775, to --

9 MS. FISHER: Actually they are not in
10 sequence.

11 BY MR. GIUFFRA:

12 Q The next page is RS 2633, the next page RS
13 2634, 2635, 66, 67, 68, 69, 70. Have you ever seen
14 that document before?

15 A Yes.

16 Q What is this document?

17 MR. ATKINS: Bob, I think it is actually
18 several documents.

19 BY MR. GIUFFRA:

20 Q Several documents, yes.

21 A All right, RS 000775 is a copy of a green
22 bar from our general ledger trust accounting system.

1 002363 is a billed audit trail for Madison Guaranty,
2 as is 2364, 2365. 2366 is a copy of a page from our
3 cash receipts journal.

4 Q What's a cash receipts journal?

5 A That's just an accounting document that
6 actually shows the recording of cash received.

7 Q So in this particular document, it says
8 2000 with a minus, what does that indicate to you,
9 next to Madison Guaranty?

10 A Right, that means that -- well, that means
11 that -- I think that's what this means, that this is
12 on the firm's -- no, excuse me, this is the trust
13 accounting. So that means there was probably a check
14 written out of our trust account to the firm in the
15 amount of \$2000.

16 Q The Worthen, W-o-r-t-h-e-n?

17 A That's where we maintain our trust account.

18 Q You would have written a check from the
19 trust account to the firm, and then there would be a
20 negative of the same amount of money as the initial
21 check?

22 A Correct.

1 Q Let me turn your attention to 2364. It
2 says "time summary by attorney," and then it has
3 "Hillary Clinton," and it has no hours but a fee
4 credit of 500. What does that indicate to you?

5 A Nothing. I just don't know what it means.

6 Q So that could reflect just the fact that
7 there was a fee credit to her of \$500, it could also
8 reflect that she did zero work but got a fee credit
9 of \$500 because she was the billing partner?

10 A Well, it could reflect -- it could reflect
11 both of those things or many other alternatives.

12 Q What are some of the other alternatives?

13 A Again, this is just a bill audit trail
14 which is a document that would have been printed
15 sometime after the bill was rendered. So it could
16 have been that she may have had one hours of work, no
17 hours of work, or 10 hours of work on the matter
18 that, when the bill was rendered, would have been
19 purged from the system. Or it could be that she did
20 work and didn't record hours or -- I mean, there are
21 just various alternatives. The bill audit trail
22 didn't tell a whole lot unfortunately.

1 Q What do you know about the circumstances
2 about which the Rose Firm managed to retain copies of
3 these records?

4 A It was -- it's just -- whenever these
5 documents went over to remote -- as I say, they
6 didn't go over in any kind of organized fashion.
7 Some of the files were microfilmed, some of them were
8 not; some were maintained, some were not.

9 If you asked me to go find the billing
10 records of a client we did work for in '85, '86,
11 there is probably a 90 percent chance we wouldn't
12 find any but there is a 10 percent chance there would
13 be an isolated document here or there. These were
14 primarily discovered going through hours and hours of
15 microfilm, just seeing, as I say, a document here and
16 there.

17 Q So that might explain why, for example, on
18 the first page, document RS 775, we only have the
19 entry starting on February 18, 1985 just because you
20 don't have the other stuff?

21 A That's correct, and we've looked, for
22 example, for '85.

1 Q Do you know when the first money was paid
2 by Madison to Rose, first retainer?

3 A No.

4 Q Were those checks made to the Rose Law
5 Firm, or were they made to the billing partner?

6 A Well, speculation, they would have been
7 made either to the Rose Law Firm, or possibly to the
8 Rose Law Firm trust account.

9 Q But not to the partner?

10 A No, not to the partner.

11 Q You just don't know how they were written?

12 A No, we don't have the checks.

13 Q Let's turn to page RS 775. This indicates
14 a payment of 2 -- on 2/18/86 of \$2000?

15 A Yes.

16 Q And then 4/10/86, another 2000; and
17 4/30/86, another 2000. Meaning the balance in the
18 trust account is 6000?

19 A Correct.

20 Q And then you start doing work on 5/27/86,
21 as Rose Law Firm, a thousand dollars, to 11.3?

22 A Well, we start submitting bills, we could

1 have been doing work back here and just not billing
2 for it.

3 Q Okay, the next entry, 6/9/86, again more --
4 this looks like another \$2000 from Madison Guaranty.
5 And then you have a bill --

6 A No -- yes, I'm sorry, it is.

7 Q The next one below that is more work being
8 billed for by Rose, and then another 2000, and then
9 more work billed?

10 A Yes, the last one was -- again, it doesn't
11 have a negative, so that's the check that we wrote to
12 return the money to Madison, \$4622.56.

13 Q Do you have any knowledge as to whose
14 handwriting this might be?

15 A I think that's Cathy's.

16 Q Cathy who?

17 A Harris.

18 Q Who is she?

19 A Our current office manager.

20 Q Do you know when she wrote this notation on
21 this document?

22 A It would have been contemporaneous with her

1 producing it. Again, we were very cautious and very
2 careful about, once we received a subpoena, we didn't
3 alter the document. So if it had somebody's
4 handwriting on it, we submitted it with the
5 handwriting, so this document -- this particular
6 document I think came from microfilm.

7 Q Have you tried to determine whether the
8 Worthen Bank might have records that might help us in
9 trying to figure out the billing of Madison by Rose?

10 A We have not, no.

11 Q Now, would the amount of a fee that's
12 listed on a fee credit report correspond with the
13 invoice fee normally?

14 A The aggregate fee credits received by all
15 attorneys should equal the amount of the fee.

16 Q The invoice fee?

17 A The invoice fee, generally speaking. There
18 can be exceptions to that.

19 Q Are you aware of any exceptions with regard
20 to the firm representation of Madison Guaranty?

21 A No, not especially, since I haven't seen
22 the bills.

1 Q Now, it has obviously become a big issue as
2 to the document retention by Rose with regard to its
3 representation of Madison. Did there come a time
4 when you directed any sort of investigation to
5 determine whether there were missing Madison files,
6 client files at Rose?

7 A We have conducted an exhaustive search for
8 all of our documents relating to Madison. Because of
9 the dates of these files, it did not surprise us that
10 we couldn't find everything that might have been
11 there to begin with. It is hard to say that we
12 conducted an investigation as to what might have been
13 taken. We know what's there, we have a general idea
14 of what would have been there at some point in the
15 history, and therefore we know somewhat what's
16 missing.

17 Q What do you believe is missing from the
18 Madison files?

19 A Well, for example, we know that
20 Mrs. Clinton maintained some files that appeared to
21 have been destroyed in 1988. That's reflected on the
22 schedule that was produced today.

1 Q Let's look at that document. This is RSS
2 2371 and 2372?

3 A Right.

4 Q When did you first learn of this document?

5 A This was one of the early things that we
6 discovered. I mean, we tried to make an exhaustive
7 list, search for all of our documents. We knew
8 anything this old would be in remote storage so we
9 made a very exhaustive search for any records in
10 remote storage, including the reviewing of each
11 attorney's remote storage file list.

12 Now, since Mrs. Clinton was no longer
13 there, we reviewed Mrs. Clinton's remote storage
14 list, a portion of which is produced as RS 002372.

15 Q And what does -- these remote storage file
16 lists, are these maintained in perpetuity or do they
17 have some sort of a date of --

18 A Each individual attorney maintains their
19 own list, so it is strictly up to them whether they
20 maintain them in perpetuity or don't.

21 Q How were you able to find Mrs. Clinton's
22 list?

1 A She had apparently kept hers and they were
2 still in the files that we had.

3 Q Her files?

4 A No, not her files, stuff she had left with
5 her former secretary who had left us too, but we had
6 sort of a set of documents that were still there in
7 that material.

8 Q Mrs. Clinton did take some files with her
9 when she moved to Washington from the firm?

10 A Yes. Let me say, these particular
11 documents.

12 Q What documents did she take with her, say
13 prior to January 20, 1993, that you are aware of?

14 A Just personal files. No client files that
15 we're aware of.

16 Q And you've attempted to ascertain whether
17 she removed any client files?

18 A Not with her. We have had no conversation
19 with Mrs. Clinton.

20 Q About her files?

21 A Yes.

22 Q Who were the conversations with?

1 A We've talked to the staff people, we've
2 talked to the remote --

3 Q Which staff people?

4 A Mrs. Clinton's secretary went with her, so
5 just other secretaries in the area that might have
6 any knowledge of any files that were taken. They had
7 no knowledge. We talked to the remote storage
8 people. They had no knowledge of any files being
9 taken.

10 Q Mrs. Clinton's secretary, what was her
11 name?

12 A Millie Austin.

13 Q Has anybody contacted her from Rose to find
14 out what files were taken by Mrs. Clinton?

15 A I don't know of any Rose lawyers that have
16 talked to Millie.

17 Q What does Millie do now?

18 A She works in the White House somewhere.

19 Q How long was she Mrs. Clinton's personal
20 secretary?

21 A Probably two or three years.

22 Q Did anyone contact Carolyn Huber and try to

1 find out about any files Mrs. Clinton may have taken
2 with her when she left the firm?

3 A Not that I know of.

4 Q What's the basis for your understanding
5 that it was only personal files that Mrs. Clinton
6 removed?

7 A Just that. I have no information from
8 anybody inside the firm or anybody else we've talked
9 to, which is basically the people inside the firm,
10 that anything other than personal files were taken.

11 Q And that's just based on people who were
12 the secretaries in the area where Mrs. Clinton
13 worked?

14 A That's correct.

15 Q Based on their recollection of what
16 documents --

17 A And the people in remote storage.

18 Q "Remote storage" meaning they were the
19 people who were contacted by Mrs. Clinton's secretary
20 to remove certain files?

21 A They would have to have known about any
22 remote storage files being retrieved.

1 Q If such a file is retrieved is a record
2 kept of such files?

3 A No, sometimes it is; sometimes it is not.
4 It is normally maintained on the individual
5 attorney's records.

6 Q Have you looked at Mrs. Clinton's records
7 to see whether any files were removed from remote
8 storage?

9 A Yes.

10 Q What have you determined with regard to
11 whether files were removed by Mrs. Clinton from
12 remote storage prior to November 20, 1993?

13 A I don't recall any files being removed on
14 the Madison/Whitewater matter.

15 Q Any removed related to any client matters?

16 A Our remote storage record is less than
17 precise. I think if you check the record, I am sure
18 you will see a date on this document, maybe where a
19 file was checked out, and it may have -- may or may
20 not have been checked back in. You can't rely on
21 those records too well, they are just manual
22 records.

1 These particular records -- let me clarify
2 what I said earlier -- were in our files in remote.
3 In 1988, according to that memo, you will see we made
4 a very concerted effort to clean up a difficult
5 problem we had in remote storage. So we sent a memo
6 like that to all the partners -- all the attorneys
7 and asked them to tell us what we could do to clean
8 up remote storage. And those were sent back to
9 remote, and that's part of what was maintained in
10 remote.

11 (Discussion off the record.)

12 BY MR. GIUFFRA:

13 Q Have you tried to ascertain -- have you
14 looked at the remote storage list for Mr. Hubbell?

15 A Yes.

16 Q And did he remove any files prior to coming
17 to Washington?

18 A I do not recall any, no.

19 Q Did you look at the list for Mr. Foster?

20 A Yes.

21 Q Did he remove any files before coming to
22 Washington?

1 A I don't recall. I mean -- I am not trying
2 to dodge you. I looked at these probably two years
3 ago, and I just -- I think I'd remember had there
4 been any notation in there that there had been files
5 removed.

6 Q Do you have any understanding as to what
7 files Mrs. Clinton may have removed, if there were
8 any, regarding client matters?

9 A I have no information that she removed any
10 client files.

11 Q And it would have been improper to remove
12 client files?

13 A Yes. Well, unless she was the client.

14 Q Do you know whether Mrs. Clinton removed
15 any files from remote storage in 1992?

16 A I don't have any information that she did.

17 MR. KRAVITZ: Can I ask just --

18 MR. GIUFFRA: Go ahead.

19 MR. KRAVITZ: Just for clarification, one
20 of your questions was, it would have been improper if
21 Mrs. Clinton had removed client files; unless she was
22 the client, I think the answer was.

1 THE WITNESS: Right.

2 MR. KRAVITZ: I am not sure -- maybe the
3 record should be clarified as to what the witness
4 meant by "improper," or interpreted the question to
5 mean by "improper."

6 THE WITNESS: If -- I only meant to say
7 that, unless any files that we maintained for private
8 clients would have been the property of the firm, and
9 certainly there were reasonable situations where you
10 could take them out of the building for legitimate
11 reasons, but to take them out and not give them back
12 would not be proper.

13 BY MR. GIUFFRA:

14 Q You indicated when you looked in the
15 Madison file there were documents that were missing.

16 MR. ATKINS: I don't think he said that.

17 BY MR. GIUFFRA:

18 Q No. Documents you thought should have been
19 there that were not in the files?

20 A No.

21 MR. ATKINS: I don't think he said that
22 either.

1 BY MR. GIUFFRA:

2 Q When you went back -- there came a time
3 when you looked and gathered the Madison files that
4 were at the firm; correct?

5 A Correct.

6 Q In looking at those files and discussing
7 the status of those files with, for example,
8 Mr. Massey and other lawyers still at the firm, did
9 you come to any judgment that there were files that
10 were missing from the firm's Madison files?

11 A We had a --

12 MR. ATKINS: Let me interrupt. I think
13 what maybe confusing you, Bob, is he was saying that
14 he knew that there were files that, at one time,
15 existed that he didn't find, as evidenced by the
16 document in your hand that we have been discussing.

17 THE WITNESS: Plus, you changed from
18 documents to files.

19 BY MR. GIUFFRA:

20 Q We will make it documents. Which is the
21 proper way, is it normally files or documents? Files
22 would be missing?

1 A Well, I searched for files, and then when
2 we found files, I went through the files to look at
3 what was in the files.

4 MR. KRAVITZ: Bob, it might make sense --

5 BY MR. GIUFFRA:

6 Q Why don't you take a look at this document?

7 MR. KRAVITZ: It might make sense to let
8 him testify about that. He has been trying to for a
9 while.

10 THE WITNESS: What this meant to me when I
11 saw it?

12 MR. ATKINS: This is document numbered RS
13 2371.

14 THE WITNESS: 2371 and 2372. In the course
15 of searching for Madison documents, we tried to find
16 what may have been at remote at one time and was no
17 longer there. This was evidence to me that, at one
18 point, we had in remote storage these four files;
19 they actually have remote storage numbers assigned to
20 them. And that during the attempted clean up of our
21 remote storage --

22 BY MR. GIUFFRA:

1 Q In 1988?

2 A In 1988. Mrs. Clinton designated that
3 these files be destroyed.

4 Q And what files are designated to be
5 destroyed?

6 A Madison Guaranty Babcock, Madison Guaranty
7 ward option, Madison Guaranty IDC, and Madison
8 Guaranty matters 1, 2, 3, 4.

9 Q What are matters 1, 2, 3 and 4, if you
10 know?

11 A I don't -- matters 1, 2, 3 and 4 would have
12 been the subnumbers. It probably was -- we could
13 find -- by looking at the bill, my guess is Madison
14 matter 1 was probably a general account. And 2 was
15 probably preferred stock, and 3 was. But that's just
16 speculation.

17 MR. GIUFFRA: Do you have the bill?

18 MR. KRAVITZ: I have one bill of January
19 30, 1986 which indicates that matter 1 is the stock
20 offering. But we could probably piece this all
21 together with other bills.

22 MR. GIUFFRA: Off the record.

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1 (Discussion off the record.)

2 BY MR. GIUFFRA:

3 Q You don't know of your own, as you sit here
4 today, what matters 1, 2, 3 and 4 are?

5 A I do not.

6 Q We have to look through the billing records
7 and try to figure that out ourselves; correct?

8 A Correct.

9 Q This number 98262, do you know what that
10 is?

11 A That's probably the client number.

12 Q The number A 873.4 1, 2, 3, that's the
13 remote storage?

14 A Yes.

15 Q Do you know what this indication to the
16 right of the D is that has a check? Does that mean
17 it was done, the documents were destroyed?

18 A Probably, but I don't know.

19 Q Where it says .1, .2, .3, .4, to you that
20 indicates file, not document?

21 A That's correct, files.

22 Q Now, did you check to see whether

1 Mr. Massey has a similar -- strike that.

2 What happened to Mr. Massey's files on
3 Madison?

4 A They were apparently removed from the
5 firm.

6 Q When were they removed from the firm?

7 A I don't know. I believe -- I believe that
8 the files that were returned to us by David Kendall
9 in November were Rick Massey's files.

10 Q What's the basis of that belief?

11 A He looked at them and thinks they were his
12 files.

13 Q Does he know -- did anyone ask him if they
14 could remove his files from the firm?

15 A No.

16 Q He doesn't know how the files were removed
17 from the firm?

18 A No.

19 Q Must be a source of some discomfort for
20 Mr. Massey to find why his files left the firm?

21 A For all of us.

22 Q He doesn't have any knowledge though as to

1 how it happened, who do it?

2 A Not that I know of, no.

3 Q Was there anybody else in the firm who
4 maybe would have had Madison files other than
5 Mr. Massey and Mrs. Clinton?

6 A Yes. There were a couple of other matters
7 that we worked on that neither -- that Rick did not
8 work on.

9 Q So Mr. Thrash, for example, may have had
10 files?

11 A Yes. We were able to find a couple of
12 other files that we had produced, or actually
13 isolated documents; I am not sure if they actually
14 found any files.

15 Q When Mr. Massey -- when the firm received
16 the Madison files back from Mr. Kendall, did
17 Mr. Massey review those files to ascertain -- in an
18 attempt to ascertain whether or not there were any
19 documents missing from the files?

20 A No.

21 Q Has Mr. Massey ever indicated to you
22 whether any documents were missing from the files

1 that were returned by Kendall's office?

2 A Rick reviewed the photocopies of the files
3 that we retained when we produced them to the
4 independent counsel. And my recollection is he said,
5 this looks like what would have been in my files. He
6 never stated -- it would have been unlikely for
7 billing records to have been in those files.

8 Q Since he was not the billing partner?

9 A Since he was not the billing partner.

10 Q Just a few more questions before we have to
11 take this break.

12 Now, do you have any understanding as to
13 whether Mr. Hubbell had any billing records in his
14 possession during 1992 related to Madison?

15 A I went home for lunch and saw his
16 testimony, the last time, saying that he recalls
17 seeing billing records in 1992 inside our firm. And
18 thus, we should still have them.

19 Q And these would be records from '85 and
20 '86?

21 A He just said Madison billings records,
22 so --

1 Q Do you have any understanding -- strike
2 that.

3 Do you have any knowledge with regard to
4 where Mr. Hubbell may have seen those records?

5 A No.

6 Q Whether he took those records out of the
7 firm?

8 A No.

9 Q Have you attempted to find out whether
10 Mr. Hubbell did in fact see billing records from
11 Madison during 1992?

12 A Only to the extent of no one in our
13 building has knowledge -- no one currently in the
14 firm has knowledge of Mr. Hubbell reviewing those
15 billing records.

16 Q Let me ask you, on the Kendall letter
17 bearing RS 381, there are some numbers that are
18 listed before each file. For example, Madison
19 Guaranty Limited Partnership, it says A 3530.1 and
20 then A 3530.2, Madison Guaranty net worth. And then
21 the next one is A 53, guaranteed preferred stock
22 offering.

1 Does the A number indicate to you that
2 that's one of the file numbers?

3 A That indicates that that file at one time
4 was in remote storage.

5 Q But the numbers are different than the ones
6 on Mrs. Clinton's index?

7 A Yes.

8 Q Do you know why they are different?

9 A These were Rick's files and those were, I
10 assume, Mrs. Clinton's filings.

11 Q Does the number -- the fact that
12 Mrs. Clinton's are a later number indicate she put
13 them in remote storage at a later time than
14 Mr. Massey did?

15 A I don't know.

16 Q If his are 3530, that were done earlier
17 than 8734?

18 A I think it is more likely that indicates
19 she sent a number of more files to remote. She had
20 been in the firm for 15 years, he had been there for
21 one. I think it was more chronological as far as
22 individual attorneys than it was --

1 Q So why do the bills start with an A?

2 A I have never seen a file that didn't start
3 with an A.

4 Q But what I don't understand, does this mean
5 that Mr. Massey has 3530 different matters that he
6 worked on --

7 A No.

8 Q -- and she has 89,000 matters?

9 A I have no idea how they index those
10 numbers.

11 Q That's the answer to that question then.

12 MR. GIUFFRA: Can we take a break now. We
13 will be back in 15 minutes. I want to apologize.
14 There is nothing we can do about it.

15 MR. KRAVITZ: 15 minutes?

16 MR. GIUFFRA: A half-hour. I'm sorry.
17 (Recess.)

18 EXAMINATION

19 BY MS. FISHER:

20 Q Mr. Clark, going back to this document, RS
21 2372, that was produced this morning by your
22 counsel -- and this may have been asked before the

1 break and I just don't recall -- were there any other
2 Madison Guaranty files or any other files related to
3 Madison on this list or any other list that you
4 found?

5 A No.

6 Q And did you check the lists for Mr. Massey,
7 Mr. Thrash or Mr. Thomas to see if they had sent any
8 Madison Guaranty files to remote storage?

9 A Yes.

10 Q Did you find any?

11 A For Mr. Massey, yes, he had some remote;
12 not for Mr. Thomas or Mr. Thrash.

13 Q Do you recall what files were remote for
14 Mr. Massey?

15 A I don't recall. I think it was just the
16 ones that had been -- that we received back from
17 Mr. Kendall, but I would have to confirm that for
18 you.

19 Q Is it your recollection that they were
20 copies of the original files you got back from
21 Mr. Kendall, or the same files you got back from
22 Mr. Kendall?

1 A The files that we received back from
2 Mr. Kendall appeared to be original files. They were
3 certainly original file folders, and of course, most
4 of what you would see in a file would be photocopies
5 of stuff, but it looked like original files.

6 Q Did those files match the files that were
7 in remote storage for Mr. Massey?

8 A I don't think I checked those numbers.

9 Q Let me ask you this, were the files still
10 in existence at remote storage or was it just a list
11 that said they had been destroyed?

12 A No, Rick had no files in remote -- we could
13 not find any of Rick's files in remote storage.

14 Q So it was just a list that -- did it have
15 an indication that those files had been destroyed?

16 A I don't believe -- no, they didn't. And I
17 will have to check even -- again, that was an
18 individual attorney, I recall Rick checking saying
19 yes, he had some files in remote.

20 I am not sure I even looked at his list or
21 whether he kept a list or computer record or what, I
22 don't know. But he indicated -- he will say that he

1 did not order any files destroyed.

2 Q Do you have any knowledge that you may have
3 received from Mr. Massey or anyone else within the
4 Rose Law Firm as to how Mr. Massey's files were
5 removed from the Rose Law Firm sometime prior to the
6 time they were returned by Mr. Kendall?

7 A No.

8 Q Or who may have been involved in that
9 removal?

10 A No.

11 Q I believe you testified earlier that the
12 Rose Law Firm received its first subpoena from the
13 grand jury sometime in January of 1994. And I just
14 wanted to see if maybe this would refresh your
15 recollection that it was on January 13 when you
16 received a grand jury subpoena?

17 A Yes.

18 Q Do you recall, was this the first grand
19 jury subpoena that you had received?

20 A Yes.

21 Q And did you have notice that this subpoena
22 was on its way prior to receiving it on January 13?

1 A No.

2 Q So this was the first that the Rose Law
3 Firm had any knowledge that a subpoena was coming
4 from the grand jury?

5 A That's correct.

6 MR. KRAVITZ: Alice, can you identify what
7 it was that you used to refresh the witness's
8 recollection?

9 MS. FISHER: Absolutely. Document RS
10 001050200152, and it is a letter from Michael Buxton
11 to Robert Fiske, dated February 9, 1994.

12 BY MS. FISHER:

13 Q Do you recall specifically what steps were
14 taken by the Rose Law Firm after receipt of the
15 January 13, 1994 subpoena?

16 A Well, of course, before that date, we had
17 already taken steps just -- when I say "we," myself
18 and my office manager -- to try to accumulate at
19 least what was in the building. And when I say "the
20 building," the main building.

21 Q And could I stop you there and ask the
22 reason why you had taken those steps?

1 A Well, we initially started taking those
2 steps as early as November, because of again, for me,
3 just simply trying to find out what Madison was
4 about, who worked on the matters, in order to respond
5 to questions.

6 And by late December, of course, it looked
7 obvious that an independent counsel was going to be
8 appointed, and we knew for a fact that our documents
9 would be requested. I was already somewhat concerned
10 about the status of our documents, since I knew at
11 that point that some had been removed.

12 So we had started very preliminarily to
13 accumulate this material. We had gone as far as to
14 begin to interview counsel, and when we got the -- in
15 fact, when we received the subpoena the day before,
16 we were interviewing Mr. Atkins's partner. So
17 immediately after we got that, I started sending out
18 memorandums to the firm that we had received a
19 subpoena or we were likely to receive a subpoena.
20 Any documents related to the Madison Whitewater
21 matter should be maintained. If they had any
22 information related to the removal of files, they

1 should contact me about that.

2 And that started pretty much in full force
3 once we received that first subpoena, even though it
4 was withdrawn the next day.

5 Q And what -- why -- could you explain why it
6 was withdrawn the next day?

7 MR. KRAVITZ: To the extent he knows.

8 MS. FISHER: To the extent you know.

9 MR. ATKINS: Based on press reports.

10 THE WITNESS: Based on press reports,
11 Mr. Mackay had said, since Mr. Fiske had been
12 reported, he thought it was polite or courteous or
13 something to stay out of it.

14 BY MS. FISHER:

15 Q I am going to show you a document, RLF
16 2030299, and ask whether you are familiar with this
17 document. It is a handwritten note that says "we
18 could not find anything for Madison, '83, '84, '85,
19 '86."

20 A Yes.

21 Q "There was a client, Madison Guaranty, set
22 up but we do not show any activity."

1 Whose initials are those, looks like HOR?

2 A No, that is HCR, and that is Herbert Rule.

3 Q Do you know the circumstances of this note?

4 A Yes, this is -- I will have to double-check

5 but I believe this was the note that Cathy Harris
6 sent me in November of 1993. Again, I think I
7 testified earlier that I had asked her to go look at
8 the billing matters we might have in the building.
9 She reported back to me that she could not find
10 anything but that there was a client, Madison
11 Guaranty, set up but we do not show any activity.

12 She said she saw something related to HCR,
13 which was Herb Rule, and Herb, in fact, had done a
14 little work on one of the matters. I think she saw
15 his initials on a billing on the BATs, or something
16 she had seen his initials on it. This is Cathy
17 Harris's writing.

18 Q Is Cathy Harris still a member of the firm?

19 A Yes, she is our office administrator.

20 Q I want to show you a document that's been
21 marked RS 1056 to RS 1058, dated January 20, 1994,
22 which is a memo from you to all firm members, and ask

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1 you if you are familiar with this.

2 A Yes, I am.

3 Q Do you recall whether this was the first
4 notice you sent to other members of the Rose Law Firm
5 regarding the subpoena served on the Rose Law Firm?

6 A I don't recall whether this was the first
7 one or not, no.

8 Q Have you -- do you recollect that there
9 were any such memos or such notices sent prior to
10 January 20th?

11 A If it hadn't been produced, then no, I
12 would think probably not.

13 Q Do you recall when the Rose Law Firm was
14 first notified or first had actual notice regarding
15 the investigation by the RTC into the Rose Law Firm?

16 A It would have been -- I believe it would
17 have been sometime after this. I want to say that
18 the FDIC report came out in maybe late February or
19 March, and -- well, let me back up.

20 I certainly knew the FDIC was looking into
21 the conflicts issue during that period of time and we
22 knew they were looking into the report, both the FDIC

1 and the RTC. Just on the conflicts, being the Frost
2 matter, because they had one conversation with me,
3 but as far as investigation, that would have been, I
4 believe I am correct, that would have been in March,
5 I would say.

6 Q When did you first learn about the RTC or
7 FDIC investigation of the conflicts issue?

8 MR. ATKINS: I'm sorry, I am going to
9 interject here. I think we may have a nomenclature
10 problem. By "investigation," are you referring to
11 something by the RTC and/or the FDIC or the RTC IC
12 Inspector General and the FDIC Inspector General? I
13 have a feeling you are not communicating.

14 MS. FISHER: I believe there is -- first it
15 was investigated by the FDIC, and then the RTC IG and
16 the FDIC IG together.

17 THE WITNESS: Right. What happened is that
18 the FDIC, after reviewing their internal files, I
19 believe, and after talking to a few members of our
20 firm, issued a report on whether there was a conflict
21 of interest in our representation of the RTC in the
22 Frost litigation.

1 The RTC, after talking to no one in our
2 firm, issued a similar report with different
3 conclusions. Those reports, my recollection are,
4 were issued in March, approximately March 15th, I
5 believe.

6 And at that point, Senator D'Amato
7 expressed outrage with the conclusions and said it
8 was a Whitewater whitewash, and ordered or said he
9 was going to request the Inspectors General of those
10 agencies to conduct an investigation of those
11 conflicts of interest.

12 And that would have been the first time we
13 would have known there was actually going to be an
14 investigation, by the IG's offices, of those matters.

15 BY MS. FISHER:

16 Q When did you first learn that the FDIC or
17 the RTC was looking into this matter?

18 A I think it was late February, early March.

19 Q Of '94?

20 A Of '94, yes.

21 Q So prior to that time you had no knowledge
22 that anybody was looking at the conflicts issue?

1 A Right, that's right.

2 Q Did there come a time in January or
3 February of 1994 when you became aware of allegations
4 that there was certain documents or files shredded at
5 the Rose Law Firm?

6 A Yes.

7 Q Could you tell me how you learned of those
8 allegations?

9 A Someone from a Washington, D.C. radio
10 station called me at 5:30 in the morning at home, and
11 said that The Washington Times, of which I had never
12 heard, had reported an allegation that the Rose Firm
13 had shredded Whitewater documents.

14 At which point, I categorically denied it,
15 and then got dressed and went to the office.

16 Q That would have been approximately February
17 9?

18 A That would have been exactly February 9.

19 Q When you categorically denied it early in
20 the morning of February 9th, on what basis were you
21 making that denial?

22 A Because the -- they read the headline to me

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1 and my recollection was the headline was that Rose
2 Law Firm shredded documents. And though I certainly
3 had no information as to whether someone may have
4 destroyed documents, I knew for a fact that no
5 documents were destroyed under the authority of the
6 Rose Law Firm because I would have had to know about
7 it, had they been so destroyed.

8 Q Meaning if someone had come to you and
9 asked your permission, will the Rose Law Firm
10 authorize this shredding, you would have had to have
11 been asked?

12 A That's right.

13 Q But if some particular attorney wanted to
14 shred documents, and not upon the authority of the
15 Rose Law Firm, but upon their own will --

16 A That I did not know.

17 Q -- you did not know?

18 A That's right.

19 Q You were just denying those allegations on
20 the basis of what came under the authority of the
21 Rose Law Firm?

22 A Rose Law Firm as an entity, under my

1 authority or anyone else's, had not destroyed any
2 documents.

3 Q Did you take any steps that day to
4 determine where these allegations stemmed from?

5 A I did. As soon as I got to the office, I
6 called separate meetings with both our entire
7 clerical staff, and then a separate -- a second
8 meeting with our runners and couriers, at which point
9 I told them of the allegations, told them I was very
10 concerned about it, that I wanted anybody who had any
11 information whatsoever concerning the destruction of
12 any documents relating to these matters to report
13 these matters to me immediately, and that if they
14 were uncomfortable reporting them to me, to find
15 somebody they were comfortable reporting them to.

16 And I did that before noon on the 9th.

17 Q Subsequently did you learn of anyone -- did
18 anyone come forward?

19 A The only thing -- well, let me -- the only
20 thing -- nothing came forward in the staff. At the
21 meeting of the couriers -- I can recall this very
22 distinctly -- I think I was the only attorney with

1 the staff, Jerry Jones was with me with the
2 couriers. One of the couriers spoke up and said that
3 he had recently destroyed some documents that bore
4 Vince Foster's initials, and to quote, he assumed
5 they had something to do with Whitewater.

6 MR. ATKINS: Excuse me. Let me interrupt.
7 The documents bore Vince Foster's initials?

8 THE WITNESS: The box, the box they were
9 contained in.

10 MR. KRAVITZ: Say that again so it is
11 clear.

12 THE WITNESS: He said that he had a box
13 which contained Vince Foster's initials on the box,
14 and that he assumed they had something to do with
15 Whitewater.

16 BY MS. FISHER:

17 Q Who was that courier?

18 A Jeremy Hedges.

19 Q Does Mr. Hedges still work for the Rose Law
20 Firm?

21 A No.

22 Q At that time he was a courier strictly for

1 the Rose Law Firm, or was he a contract courier?

2 A No, he was an employee of the firm.

3 Q What else did Mr. Hedges tell you at that
4 time?

5 A That's really it. We told him that we --
6 we had already talked to our attorneys, and knew that
7 we would be contacting the independent counsel to
8 assure them that we had not been destroying documents
9 and we would provide whatever cooperation we could.

10 I told him at that time that they were
11 certainly to be questioned about this matter, that
12 they should not in any way attempt to protect the
13 firm, that they will be expected by us to tell the
14 truth, and that if they were in any way uncomfortable
15 with talking to me about this subject matter, again,
16 they should find somebody they were comfortable
17 talking to and tell them anything they knew about the
18 destruction of documents.

19 Q When you say "they," who is they,
20 Mr. Hedges and who else?

21 A At this point, it was all the couriers
22 except one, one of the couriers was not there, who I

1 talked to later.

2 Q Did Mr. Hedges make this statement in front
3 of all the other couriers?

4 A Yes.

5 Q Did he tell you at that time or at some
6 subsequent time who had asked him to destroy these
7 documents?

8 A That's the last conversation I personally
9 had with Jeremy. We were very much concerned
10 about -- and when I say "conversation," where there
11 was back and forth -- I was very much concerned about
12 in any way being accused of attempting to affect what
13 he might tell anyone. We immediately contacted the
14 independent counsel who obviously said they wanted to
15 question these people.

16 We engaged two different attorneys, and
17 made them available to the couriers, and also told
18 them if that if they wanted their separate attorney
19 that we would pay for it. Mr. Hedges obtained his
20 own counsel, which we did pay for and which I did
21 have conversations with his counsel, but I did not
22 have an additional conversation with Mr. Hedges.

1 Q And who was his counsel?

2 A Dean Overstreet.

3 Q Did you subsequently learn of any other
4 courier or any other staff members of the Rose Law
5 Firm being involved in the destruction of documents?

6 A No.

7 Q Have you heard allegations of some
8 involvement by someone by the name of Clayton
9 Lindsey?

10 A I wouldn't classify it as involvement. It
11 is my understanding that he may have testified, that
12 Jeremy had told him of some concern he had with these
13 documents, but as far as involvement, as far as
14 physically doing it, I don't have any information
15 concerning that.

16 Q Does Mr. Lindsey still work at the Rose Law
17 Firm?

18 A No.

19 Q What about someone by the name of Rickie
20 Stacey?

21 A Rickie Stacey still works at the Rose
22 Firm. She is the person in charge of our remote

1 storage.

2 Q Are you aware of any knowledge that
3 Ms. Stacey would have had regarding the destruction
4 of documents?

5 A As far as I know, she has no knowledge.

6 Q What are the circumstances under which
7 Mr. Hedges left the firm?

8 A He quit.

9 Q At what point in time?

10 A I would say probably six to eight weeks
11 after that.

12 Q How about Mr. Lindsey?

13 A Same, he quit.

14 Q At the same time?

15 A I think he may have quit before Jeremy but
16 I don't -- I can give you those exact dates but I
17 don't know.

18 Q Do you have any information that either
19 Mr. Hedges or Mr. Lindsey has had any contact with
20 members of the Rose Law Firm regarding destruction of
21 documents since February or March of 1994?

22 MR. ATKINS: You mean since they left?

1 MS. FISHER: Yes.

2 THE WITNESS: I have no information that
3 there has been any contact.

4 BY MS. FISHER:

5 Q Would the destruction of documents or this
6 issue regarding the destruction of documents have
7 anything to do with the fact that Mr. Hedges and
8 Mr. Lindsey left the firm?

9 A They quit. You would have to ask them.

10 Q Do you know where they are located now?

11 A No.

12 Q Did you ever learn anything further
13 regarding what these documents may have been, other
14 than they were -- it was a box that was marked Vince
15 Foster?

16 A Yes.

17 Q And what is that knowledge?

18 A According to what we've learned, Mr. Hedges
19 indicated he destroyed a box of documents which had
20 Vince Foster's initials on it. He obtained that box,
21 or that box was sent downstairs to be destroyed by
22 one of our file clerks. The file clerk was able to

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1 identify that box as to where it came from.

2 It was a box containing documents which
3 were placed in there by one of our partners when he
4 was moving offices. We were just fortunate to be
5 able to find the original file folders those
6 documents came from, and I think we produced those to
7 some people. Whether we produced those to you, I
8 don't know.

9 MR. ATKINS: We have --

10 MS. FISHER: What documents are those?

11 MR. ATKINS: -- the file folders from which
12 these documents were obtained.

13 MS. FISHER: I see, I see. That's the
14 pages at the end of the production to us.

15 MR. ATKINS: They are photocopies of the
16 file jackets from which these documents were
17 obtained, and those photocopies of the file jackets
18 were produced.

19 (Discussion off the record.)

20 BY MS. FISHER:

21 Q Who was the name of the file clerk that --

22 A Elise McShane. E-l-i-s-e, I believe.

1 Q Do you have any further knowledge about any
2 other documents that were destroyed at the Rose Law
3 Firm during this time period?

4 A No.

5 Q Did you do any further internal
6 investigation into any destruction of documents?

7 A Well, we did, because I was not contacting
8 or discussing this directly with the courier, we did
9 a significant amount of investigation, following
10 other possibilities, you know, accidental
11 destruction. We went to remote storage to see if
12 there was any destruction going on over there of a
13 routine nature. We were involved in a recycling
14 program during that period, you know, could any
15 documents have been sent to recycling.

16 So we did a significant amount of
17 investigation. We eventually discovered the fact
18 though that, you know, that Mr. Hedges was saying
19 that the documents that he was concerned about came
20 from Elise, so we could pretty much pinpoint what
21 those documents were. And I mean, Mr. Hedges has
22 apparently since stated he didn't think they had

1 anything to do with Whitewater. So once we found out
2 that they were -- where they came from, we thought we
3 had it pretty well pinned down as to what they were.

4 Q Was there any kind of internal report or
5 notes taken at any internal interviews or anything
6 like that, generated --

7 A No.

8 Q -- at this time?

9 Do you have any knowledge that any Rose Law
10 Firm files were ever in the possession of Betsy
11 Wright?

12 A No.

13 Q Do you know Ms. Wright?

14 A I know who she is. I have never met her.

15 Q Has she ever visited the Rose Law Firm?

16 A Not to my knowledge.

17 Q Were there any other files returned to the
18 Rose Law Firm by David Kendall, other than ones
19 represented in the November letter?

20 A No.

21 Q Were --

22 MR. ATKINS: Excuse me. Can I confer with

1 my witness for a minute.

2 (Witness conferred with counsel.)

3 MR. ATKINS: Let me just say, Mr. Clark may
4 not know this, but there are some files relating to
5 Whitewater that were returned by David Kendall that
6 we have, in turn, produced to you. And they have our
7 Bates number and they also have a DEK Bates number at
8 the bottom.

9 MR. GIUFFRA: Is there a transmittal letter
10 from Mr. Kendall?

11 MR. ATKINS: I don't believe --

12 MR. GIUFFRA: He sent them over without a
13 transmittal letter?

14 MR. ATKINS: My information was it was
15 during one of the snowstorms which shut down
16 Washington and no secretaries were around.

17 MR. GIUFFRA: Did he hand-deliver them to
18 you himself?

19 MR. ATKINS: I think so.

20 MR. GIUFFRA: Did he say where the
21 documents came from?

22 MR. ATKINS: These were Whitewater files

1 relating to work that had been done by Alan Bird.

2 MS. FISHER: Do you recall about what date
3 that was?

4 MR. ATKINS: February of '94.

5 MS. FISHER: Soon after Vinson & Elkins
6 were retained?

7 MR. ATKINS: Well, we were retained in
8 January but it was sometime during this time period
9 of February 1994, during one of the weekends when
10 there was a big snowstorm.

11 MS. FISHER: Do you recall the
12 circumstances of how they got returned? I mean other
13 than what you've testified --

14 MR. GIUFFRA: Stated.

15 MR. ATKINS: His clients' files, and he was
16 returning them, sending us a copy of them.

17 MS. FISHER: And that is work that Mr. Bird
18 did on the lot 13 transaction; is that correct?

19 MR. ATKINS: Yes.

20 BY MS. FISHER:

21 Q Do you recall that Mr. Bird did some work
22 on Whitewater lot 13 for Mrs. Clinton?

1 A Well, I let Alan refresh my recollection.
2 I recall having the discussion with Alan where he
3 reported to me the files were returned. I don't
4 think I saw those files they went from Alan's office
5 to the independent counsel.

6 Q Do you recall any -- do you have any
7 substantive knowledge about the work that Mr. Bird
8 did?

9 A Yes, I had a conversation with Alan about
10 it.

11 Q Could you tell me about that?

12 A His recollection was that there was some
13 lot that had been sold on a note, or a contract for
14 sale, and the purchaser had gone into bankruptcy.
15 And he had done some work to try get a relief from
16 the stay so they could, in effect, foreclose or get
17 that lot back.

18 MS. FISHER: Hold on just a second.
19 (Discussion off the record.)

20 BY MS. FISHER:

21 Q Were any other files returned to the Rose
22 Law Firm by Mr. Kendall?

1 A Not to my knowledge.

2 Q How about Mr. Hubbell, did he ever return
3 any files?

4 A No.

5 Q Mr. Kennedy?

6 A No.

7 Q Mr. Hamilton or the firm of Swidler &
8 Berlin?

9 A No, I don't know of any Rose Law Firm files
10 that were returned by anyone else; Mr. Hamilton, no.

11 Q Mrs. Clinton?

12 A No.

13 Q Do you know of any other original files
14 that were taken from the firm at any time?

15 A There was a Bank of Kingston file which is
16 apparently taken.

17 Q And do you know who took that file?

18 A No.

19 Q Was it an original file?

20 A I don't know.

21 Q How did you learn that there was a Bank of
22 Kingston file that was taken?

1 A In the course of conversations with the
2 office of independent counsel, they said that
3 Mr. Hubbell produced to them a Bank of Kingston file
4 which they believed to be one of the Rose Firm
5 files. And it was shown to me in the grand jury and
6 it looked like it was one of the Rose Firm files.

7 Q Did you ever learn when that file was
8 removed from the Rose Law Firm?

9 A No.

10 Q Were there any other files that were --
11 that were Rose Law Firm files, relating to any other
12 matters, that you know of, taken out of the Rose Law
13 Firm?

14 A Not to my knowledge.

15 Q Did anyone during the 1992 Presidential
16 campaign come to the Rose Law Firm to review any
17 files?

18 A Not that I know of.

19 Q Other than Mrs. Clinton, were there any
20 other billing partners for Madison Guaranty matters?

21 A We have one -- I forgot what it's called
22 now.

1 Q New matter form?

2 A New matter form which indicates that
3 Mr. Hubbell was the billing partner for one matter,
4 but that's the only one we have to indicate that.

5 Q And would that be document RS 00776?

6 A Yes, that's it.

7 Q And that indicates that the billing
8 attorney is number 42, that was Mr. Hubbell's --

9 A Yes, billing number.

10 Q -- number?

11 Would you tell me what this document
12 represents, RS 023224? It is called the daily
13 briefs; just explain to me what that document is.

14 A Every day we send out -- this is in effect
15 the Rose Law Firm internal newsletter that gets
16 distributed every day, and it contains various
17 things, as you can see, like who has conference rooms
18 scheduled for that day.

19 One thing that it also contained is any
20 time a new matter is opened, it is published in the
21 daily brief, primarily for conflict purposes to make
22 sure everybody is identified, and that's what it is.

1 Q So, for example, on this document, RS
2 02324, this would signify that a Madison Guaranty
3 Savings & Loan file matter general was opened on
4 April 29, 1985?

5 A It would have been opened actually before
6 April 29, probably within two or three days before
7 that, and then published or printed in the bulletin.

8 Q Were you able to locate any such daily
9 briefs which indicated when a Madison Guaranty file
10 related to the matter of preferred stock was opened?

11 A No.

12 Q See, for example, we have one that's marked
13 general, one that's marked limited partnership, one
14 that's marked Bibler Golden, and one that's marked
15 IDC. But you don't have one for preferred stock; is
16 that correct?

17 A That's correct.

18 Q And could you explain to me why that might
19 be?

20 A It could be various reasons. One, it could
21 have been that the account name was changed; maybe
22 general was converted to preferred stock; or it could

1 be that, since it was a subnumber, that it just
2 wasn't published.

3 The primary reason we publish them is for
4 conflicts, and since Madison had already been
5 published, it could be that they just decided --
6 whoever "they" being, some secretary downstairs --
7 but I really don't know why.

8 Q Well, because you have one for general,
9 then you have one for limited partnership, and then
10 you have one for Bibler Golden, so that explanation
11 wouldn't seem to fit here.

12 MR. ATKINS: Let me suggest another
13 possibility, that it is an old piece of paper that
14 doesn't exist.

15 THE WITNESS: We may not have it to that
16 degree.

17 BY MS. FISHER:

18 Q Is that because there aren't daily briefs
19 before April 29, 1985? Are there documents that
20 exist prior to this date that you've reviewed that it
21 doesn't show up on?

22 A Yes.

1 Q So you have, for example, reviewed April of
2 1985 daily briefs?

3 A We reviewed all the daily briefs that we
4 have. We certainly do not have all of them.

5 Q I see.

6 A But I think we have them going back prior
7 to that period of time.

8 Q How far back? Would you have them, for
9 example, for August of 1984?

10 A I don't know. I recall having one for
11 April 25th of 1985.

12 Q Do you recall whether any documents in 1984
13 were reviewed to see if a Madison file was opened at
14 that time?

15 A Yes, we would have reviewed what accounting
16 records we had and what daily briefs we had going
17 back through almost the entire '80s.

18 Q And this RS 32328, August 5, 1985,
19 signifies that the attorney for the IDC matter was
20 Mr. Hubbell --

21 A Yes.

22 Q -- is that correct?

1 A That's correct.

2 Q So that would indicate that Mr. Hubbell
3 opened the file on the IDC matter; is that correct?

4 A Well, what it actually reflects is that the
5 information on the new client matter, which would --
6 you would think it would mean he would open it but --

7 MR. GIUFFRA: Could we go off the record
8 for a second. Stay on the record really briefly.

9 We just received -- the Whitewater
10 Committee -- about I would say five minutes ago, 10
11 minutes ago, a letter from David Kendall, the law
12 firm of Williams & Connolly, making the supplemental
13 production of documents to the Whitewater Committee.
14 He is producing what appears to be a little bit over
15 120 pages of documents. These documents were
16 discovered yesterday by Ms. Carolyn Huber, special
17 assistant to the President, special director of
18 correspondence.

19 The documents, according to Mr. Kendall who
20 I spoke to, were found at the White House. And they
21 appear to be copies of Rose Law Firm billing records
22 for the firm's -- copies of the Rose Law Firm billing

1 records for the firm's Madison Guaranty
2 representation in the mid-1980s. These documents
3 based on the run date, apparently, according to
4 Mr. Kendall's record, appeared to be collected early
5 in the 1992 Presidential campaign.

6 I guess the question becomes you probably
7 haven't seen these records.

8 THE WITNESS: I have not.

9 MR. GIUFFRA: You are probably unaware of
10 these records.

11 THE WITNESS: I am.

12 MR. GIUFFRA: This is probably the first
13 you have heard of these records; am I correct?

14 THE WITNESS: It is.

15 MR. GIUFFRA: And I don't know what we -- I
16 guess the procedure we should follow is maybe to have
17 Alice finish as much as she can do, but I think we
18 will probably want you to come and interpret these
19 records for us. And I just don't know what your
20 schedule is.

21 MR. ATKINS: Why don't we go off the
22 record.

1 (Discussion off the record.)

2 MS. FISHER: Can we go back on the record?

3 I want to ask a few questions about this
4 document that will help when we see them over the
5 weekend.

6 BY MS. FISHER:

7 Q Document DKSX 028928, to DKSX 028932, could
8 you explain to me what this is?

9 A This is a client billing and payment
10 history. This is what we referred to -- well, let me
11 back up.

12 This is the client billing and payment
13 history which basically reflects every invoice that
14 was submitted, and the amount of -- amount collected
15 in payment of that invoice for all matters.

16 Q Have you seen this document before?

17 A I have never seen this document before.

18 Q Does this document exist at the Rose Law
19 Firm?

20 A A hard copy of this document does not exist
21 at the Rose Law Firm.

22 The only possibility that we had this

1 document would be on the Wang tapes.

2 Q Let me ask you this, it has little dots
3 along the side. Would this document have had to be
4 ripped out of a book? When it did exist at the Rose
5 Law Firm where would it have been?

6 A This is just green bar paper, where it's
7 printed on a standing computerized printer. This was
8 before our system was changed over.

9 Q Let me ask you this, up in the corner, it
10 says February 12, 1992, 8:41. Does that indicate to
11 you that's when it was printed off the system?

12 A Yes.

13 Q Is there anything on this document that
14 would indicate who printed it off the system?

15 A No.

16 Q There is no ID, who would have logged in to
17 get the printout, or anything like that?

18 A No.

19 Q So as of February 1992, this document
20 existed on the Wang system; is that correct?

21 A That's correct.

22 Q And as of -- as we stand here today, in

1 early 1996, this document no longer exists on the
2 Wang system; is that your understanding?

3 MR. ATKINS: The Wang system doesn't exist.

4 THE WITNESS: Later in 1992 is when we
5 discontinued the Wang system and we backed up
6 everything then on the system, on these disk packs
7 that I talked about.

8 BY MS. FISHER:

9 Q If this document existed on the system, as
10 of February 12, 1992, what is the likelihood that it
11 would have been backed up on that system, when you
12 printed -- you know, on -- when you changed over?

13 A If this information was -- I can't tell you
14 the likelihood. I just don't -- well, back up.

15 Q This is more than 90 days old as of '92, is
16 what I am asking.

17 A I would think this particular information
18 most likely would have been backed up at that time.

19 Q Okay. So, it probably does still exist in
20 some form, but we can't --

21 A I don't know.

22 Q -- we don't know if we can get to it

1 because of the computer problems?

2 A That's correct. That's correct.

3 MR. ATKINS: Let me also tell you that in
4 our inquiries of computer geeks about these disks,
5 they tell us the disks may be unreadable because of
6 their condition.

7 MS. FISHER: I understand.

8 BY MS. FISHER:

9 Q On the last page of this, page 5, it says
10 "report total fee 21,202.25." Would that be the
11 total amount billed for this client, no matter what
12 lawyer worked on it?

13 A Yes.

14 Q What would be over under realization
15 number?

16 A That would have been amounts that were --
17 we have each computer -- each attorney has their
18 hourly rate inside the computer. And that just means
19 the total accumulation of hourly rates which is
20 probably 2543.75 less than what was actually billed.

21 Q So you added this on to the bill to come to
22 the 21,000?

1 A Or somebody was billed actually at a higher
2 rate, that's what it was.

3 Q This is the number of hours that were put
4 into the system, 95.72?

5 A No, that's the average hourly rate that was
6 billed, \$95.72.

7 Q And what is this 339?

8 A That's disbursement.

9 Q Okay, great. Thank you. I am going to try
10 to finish because I know you have to leave, so I
11 don't want to spend too much time on these new bills
12 before we digest them anyway.

13 I wanted to ask you a question about the
14 computer system that you had at the end of 1992 and
15 1993, and ask whether there was a format where
16 documents, when they were printed out, would be
17 automatically dated?

18 A Yes.

19 Q Could you tell me something a little bit
20 about that? And I will tell you why I am asking
21 this. We have a memo here that's from Vince Foster,
22 November 8, 1993.

1 Would that signify when this document was
2 printed off the system?

3 A Yes, back in November 1993, again, we were
4 trying to discover any information. This was one of
5 the things which we found referenced on the computer
6 libraries. I asked Vince's secretary to print this
7 document out; she printed it out. I immediately
8 noticed the same thing. I asked her about it and she
9 said, no, you can code a document in to where it is
10 updated every time it is printed out. That means it
11 is the date it was printed out.

12 Q I see.

13 And it was under your instruction that this
14 document was printed out?

15 A Yes.

16 Q Did you have any conversations with anyone,
17 other than members of the Rose Law Firm, about
18 Whitewater documents prior to November 1993?

19 A No.

20 Q For example, you didn't have any
21 conversations with anyone from the White House --

22 A Absolutely not.

1 Q -- during this time, November of 1993?

2 A No.

3 Q Any conversations with Mr. Bruce Lindsey?

4 A I have never spoken to Mr. Bruce Lindsey.

5 Q Mr. Stephen Engstrom?

6 A No.

7 Q Mr. Jim Lyons?

8 A No.

9 Q David Kendall?

10 A No.

11 Q Mr. Kennedy?

12 A No.

13 Q And the reason I ask is because this
14 November 8 date is three days after the November 5th
15 meeting between all those people, so I just wanted to
16 make sure that there wasn't -- see whether there was
17 any relation to that.

18 A No.

19 MR. ATKINS: Probably prompted by the same
20 press inquiries.

21 BY MS. FISHER:

22 Q Do you know if, at any time, the Rose Law

1 Firm received any checks from the account of
2 Whitewater Development Corporation?

3 A I do not believe we did. We have no record
4 of receiving any checks.

5 Q Do you have any knowledge that the firm may
6 have been retained by Madison prior to April of 1985?

7 A We had been retained by Madison Bank in the
8 Bank of Kingston litigation. Frankly I don't know
9 how Madison Bank relates to Madison Savings & Loan,
10 but they were both owned by Jim McDougal is my
11 understanding, or at least partially owned.

12 Q Other than that, do you have any other
13 knowledge --

14 A No.

15 Q -- of any retainer agreement prior to --

16 A No.

17 Q I want to show you a document that is dated
18 February 11, from Walter Stuart to David Kendall, RS
19 744. I ask you if you have ever seen this document.

20 A I don't recall seeing it, but I am shown
21 receiving a copy so I am sure I have seen it.

22 Q Do you have any knowledge of the

1 circumstances surrounding this document?

2 A No.

3 Q Do you have any knowledge of a joint
4 defense agreement between the Rose Law Firm and the
5 Clintons?

6 A No.

7 Q For example, this document says
8 "confidential joint defense communication." Do you
9 have anything that may explain that legend on the
10 letter --

11 A No.

12 Q -- any knowledge?

13 Have you had contact since -- prior to,
14 let's say, October of 1993, up until the present time
15 with any member of the White House?

16 A Yes.

17 MR. ATKINS: What was the date range?

18 MS. FISHER: October 1993 to the present.

19 BY MS. FISHER:

20 Q Could you tell me the circumstances of
21 those conversations?

22 A In December of 1993, the members of the

1 firm were invited to one of the White House Christmas
2 parties, and my wife and I attended that. And at
3 that party I spoke to Mrs. Clinton.

4 Q Did you speak to Mrs. Clinton about any
5 matters related to Madison/Whitewater?

6 A No.

7 Q Anything at all related to any of those
8 documents?

9 A No, it was in a room of about 600 other
10 people.

11 Q Did you talk to anyone else at that
12 meeting, or that party?

13 A I saw Carolyn but I don't think I spoke to
14 her. And I also saw Web and I definitely did not
15 speak to him.

16 Q Are there any other circumstances that you
17 had contact with any member of the White House during
18 that time period?

19 A No.

20 Q Do you have any knowledge that there was an
21 attempt to take documents out of the Rose Law Firm
22 after November 5, 1993?

1 A I had -- no, there was no -- to my
2 knowledge, there was no attempt whatsoever to remove
3 documents after that date.

4 Q Do you have any knowledge of any Whitewater
5 documents being taken out of the Rose Law Firm in
6 1992 or 1993?

7 A No, I have no knowledge.

8 Q Do you have any knowledge of any Whitewater
9 documents being removed from the firm prior to 1992?

10 A I have knowledge of the ones that
11 Mr. Kendall was working on that, apparently at some
12 time, were removed from the firm.

13 Q For the Presidential campaign?

14 A Right, in the February, March time frame of
15 1992.

16 Q Have you ever had any conversations with a
17 woman by the name of Loretta Lynch?

18 A No.

19 Q Have you ever had any conversations with
20 Jim McDougal?

21 A No.

22 Q Mr. Sam Heuer?

1 A Heuer? Sam Heuer and I were in the eighth
2 grade together, so not since the late '60s.

3 I am going to correct the record. He was
4 in the eighth grade with my sister.

5 Q Other than members of the press and your
6 counsel, have you been contacted by any other
7 individuals regarding the Madison files?

8 MR. ATKINS: You mean other than the dozens
9 of investigators swarming over the Rose Law Firm?

10 BY MS. FISHER:

11 Q Investigators, press.

12 A Other than investigators and press and my
13 own partners and lawyers.

14 Q And counsel?

15 A No.

16 MS. FISHER: I have no further questions.

17 MR. KRAVITZ: Let's go off the record for a
18 minute.

19 (Discussion off the record.)

20 EXAMINATION

21 BY MR. KRAVITZ:

22 Q Mr. Clark, you testified this morning about

1 some advance checks that Mr. Hubbell wrote to his
2 credit card company or companies while he was a
3 partner at the Rose Law Firm, checks that you
4 reviewed at some point after Mr. Hubbell left the
5 Rose Law Firm.

6 And I believe you testified that on two or
7 three of those checks that were for more than a
8 thousand dollars, Mrs. Clinton had cosigned the
9 checks?

10 A That's correct.

11 Q Do you have any reason to believe that
12 Mrs. Clinton knew at the time that she cosigned any
13 of those two or three checks that the checks were
14 fraudulent in any way?

15 A No. Web Hubbell, as evidenced by how far
16 he got in the scheme, was one of the most trusted
17 people in the firm. Had he come to me, I would have
18 signed them without second thoughts.

19 Q And these two or three checks that
20 Mrs. Clinton cosigned were two or three out of how
21 many, approximately?

22 A Probably 3- to 400.

1 Q So there was no pattern of Mr. Hubbell
2 routinely going to Mrs. Clinton for cosignature on
3 checks?

4 A No, the vast majority of them were under a
5 thousand dollars and there were very few over a
6 thousand dollars, but even -- there may have been 20
7 or 30 over a thousand dollars, and she had signed two
8 or three of them.

9 Q This afternoon you answered some questions
10 about the subject of allegations that documents had
11 been shredded by Rose Law Firm couriers or other
12 employees, allegations that I believe you testified
13 came out in February of 1994 or at least were
14 reported in February of 1994.

15 As a result of investigation that you
16 conducted, and investigations that you are aware of
17 conducted by others, do you have any reason to
18 believe that any documents related to Whitewater
19 Development Corporation, or Madison Guaranty Savings
20 & Loan were destroyed by any Rose Law Firm employees?

21 A No, I have no way of knowing such documents
22 were so destroyed.

1 Q As a result of your investigation and your
2 knowledge of investigations conducted by others, do
3 you have a belief as to whether or not documents
4 related to Whitewater or Madison were destroyed by
5 Rose Law Firm employees?

6 A I did not believe they were destroyed.

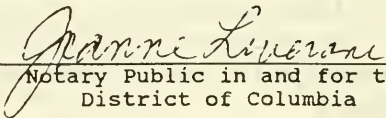
7 MR. KRAVITZ: That's all I have. Thanks.
8 (Whereupon, at 4:43 p.m., the deposition was
9 adjourned.)
10
11

12 RONALD M. CLARK
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

229

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

DEPONENT RONALD M. CLARK, January 5, 1996

ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
73	20	wonderful		error
76	22	press independent	press the independent	transcription error ("TE")
83	18-19	could you	you could	TE
83	19	time was	time, then it was	TE
97	2	wasted upon	limited to	TE
110	15	bill	billed	TE
122	16	its	his	TE
127	5	If's	It's	TE
163	1	RSS	RS	TE
179	10	filings	files	TE
186	12	reported,	appointed,	TE
205	1	Alan	Alden	TE
228	6	did	do	TE

LAW OFFICES OF
ROSE LAW FIRM
 A PROFESSIONAL ASSOCIATION
 130 EAST FOURTH STREET
 LITTLE ROCK, ARKANSAS 72201
 PHONE (501) 378-9131

hrc 62.50

CLIENT: 10380

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 400 JONES LATHAM, PRESIDENT
 1030 AND 1031
 LITTLE ROCK, AR 72201

JAN 17, 1986

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 MANAGER MEETING WITH J. LATHAM, P. CLAY, ET AL. CL. MANAGING
 P. CLAY, ET AL. FOR MEETINGS CONFERENCES WITH P. CLAY, ET AL.
 TELEPHONE REGARDING SYNDICATIONS CLAY AND P. CLAY LETTER TO CL.
 P. CLAY.

TOTAL ATTORNEY FEES 977.00

DISBURSEMENTS

YERBY CIRCLES 4.00

TOTAL DISBURSEMENTS 4.00

TOTAL DEDUCTIONS

981.00

P/R
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PAID 982.50
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ROSE LAW FIRM

**CLARK EXHIBIT 2 WAS NOT PROVIDED
IN TIME FOR PUBLICATION**

**DEPOSITION OF BRUCE R. LINDSEY
IN RE: S. RES. 120**

WEDNESDAY, JANUARY 10, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of BRUCE R. LINDSEY, called for examination pursuant to notice of deposition, at 3:50 p.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALLEN R. SNYDER, Esq.
Hogan & Hartson
555 Thirteenth Street, NW
Washington, DC 20004
On behalf of the Deponent.

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P R O C E E D I N G S

MR. GIUFFRA: This is a deposition that's being conducted pursuant to Senate Resolution 120.

Mr. Lindsey, you've been deposed before and you don't need me, I suspect, to go through the entire preamble.

MR. LINDSEY: Do not.

MR. SNYDER: I would just like to say for the record, as we've discussed, Mr. Giuffra knows that Mr. Lindsey and I each have some commitments this evening that we had indicated we needed to leave here by 6:30 or 7:00 at the absolute, absolute latest. And we had offered to start at 2:00. There were some conflicting scheduling problems that Mr. Giuffra had and he had proposed that we start immediately after what he thought would be 3:00 and obviously ran a little bit longer. We're happy to proceed as fast as we can and hopefully we can finish up today because we really -- I don't think are going to be able to come back. We'll talk as fast as we can and try to cooperate with you to move it along.

MR. GIUFFRA: We appreciate Mr. Lindsey and

Mr. Snyder's cooperation.

Mr. Lindsey, if I could begin, I'd like to show you a document -- this is a document the White House has shown to Committee counsel in a Times editorial 1993. The editorial contains some handwritten marginalia of the President. I have written on the document the marginalia as it was shown to me and to Mr. Kravitz, and I'd like to ask you about the document.

Whereupon,

BRUCE R. LINDSEY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. KRAVITZ: Bob, do you have -- I guess you don't because it wasn't given to us, but maybe you can refresh Mr. Lindsey's memory by telling him there was another page to this document that indicated that it was sent to him.

MR. GIUFFRA: Yes, I will. Mr. Kravitz has stated, exactly, there was another page that said "Mack/BL."

MR. SNYDER: I'm sorry. What did it say?

1 MR. GIUFFRA: Mack/BL.

2 THE WITNESS: Mack McLarty.

3 EXAMINATION

4 BY MR. GIUFFRA:

5 Q What do you recall about this document, if
6 anything?

7 A I don't recall anything. Obviously I
8 received it from the President, but I don't -- until
9 I read about it in last Sunday's -- or one of the
10 papers over the weekend that this was an issue, I had
11 forgotten completely about it.

12 Q Do you recall ever receiving this editorial
13 from the President?

14 A Yes. I mean, do I recall it, no. But I
15 did receive it.

16 Q The editorial was found in your files;
17 correct?

18 A It should have been.

19 Q You don't recall contacting Ms. Bassett
20 following the receipt of this editorial with the
21 marginalia from the President?

22 A I don't remember contacting her in response

6

1 to this. I spoke -- I don't know if I spoke to
2 Beverly, but I spoke to several people who were
3 talking with Beverly, and in communication with
4 Beverly probably around this time about -- about
5 Beverly getting her story of what happened out when
6 this became an issue.

7 As the President noted, she did at some of
8 the campaign -- and you probably have seen in my
9 file, I think, several people did -- chronologies of
10 the documents within the state security
11 commissioner's files to demonstrate what actions she
12 did take over a period of a year, year and a half to
13 try to get the federal government to act with respect
14 to Madison.

15 By the way, I actually have looked at the
16 original "can she now." I have trouble with the word
17 "can." I don't know if you've seen his
18 handwriting. I'm not sure -- that is not his
19 handwriting. That's somebody's handwriting of what
20 he said.

21 Q My handwriting.

22 A I can read most of it. I couldn't read the

1 word "can." It could well be "can." But it was
2 difficult for me to read in the version I saw.

3 Q Who else did you speak to with regard to
4 whether Ms. Bassett could be able to stick to the
5 story that she set forth before the campaign?

6 A That's not what I said. There was never a
7 question about her sticking to the story. There was
8 a question about whether she would talk to the press
9 about her story. She would get her story out. She
10 was very -- mostly the people I talked to were -- at
11 one point, I think I spoke to Archie Schaffer, her
12 husband. And the other person I spoke to were at
13 least one and maybe two of my law partners and her
14 law partners.

15 Q When you spoke to Archie Schaffer, do you
16 recall when you spoke to Archie Schaffer?

17 A No. I spoke to Archie several times.
18 Archie was mostly concerned -- I don't know if you
19 remember, there was this period -- you could ask
20 Senator Faircloth's assistant about it -- because
21 there was a period of time when he was in
22 Fayetteville, I'll use the word "stalking," Beverly

1 and Archie was very upset about that; took his
2 picture through a window one time which made the
3 front page of some of our local papers, and again,
4 I'm having trouble remembering when that was. But I
5 spoke to Archie at some point around then. Archie
6 sent me a copy of the article as it appeared in the
7 Northwest Arkansas Times and Beverly was very upset
8 and unhappy about this guy basically stalking her.
9 David -- what's his name? Anyway, what's Faircloth's
10 guy's name?

11 Q Let me ask a question.

12 A He used to work for Citizens Action.

13 Q Did you attend a -- do you recall attending
14 any University of Arkansas basketball games in
15 December of 1993?

16 A I attended a University of Arkansas
17 basketball game sometime around then.

18 Q December 28th?

19 A Again, I couldn't tell you the date.

20 Q And you attended the game in the Tyson
21 Foods box?

22 A I think that's right.

1 Q And who was present during the game?

2 A There was a ton of people up there.

3 Archie -- if your question was, were the Schaffers
4 there, I think Archie was there and Beverly were
5 there. At least Beverly was there during part of
6 it.

7 Q And was the President present?

8 A I'm not sure he was in the box. He may
9 have been down in the stands. We had a box, but I
10 think he actually sat not in the box but in the
11 stands below us.

12 Q Do you recall any discussion between the
13 President, Archie Schaffer and yourself with regard
14 to anything having to do with Whitewater or Madison
15 Guaranty?

16 A I remember speaking to Archie about some of
17 this stuff. I don't remember whether the President
18 was around.

19 Q Do you recall any conversation between the
20 President and either Archie Schaffer or Beverly
21 Bassett-Schaffer during this basketball game?

22 A Not specifically.

10

1 Q Generally?

2 A Well, if the President was there, and I
3 think at some point the President was in the box, my
4 gut would be that he would have spoken to Archie and
5 Beverly. I don't remember any specific conversation,
6 but that certainly wouldn't be unusual.

7 Q Do you have any --

8 A It could well have been -- I had a
9 conversation with Archie. That may have been a time
10 when Archie indicated to me how unhappy or how upset
11 Beverly was.

12 Q Do you recall any discussion -- strike
13 that.

14 Are you aware of any discussion in 1993 and
15 1994 between the President and Ms. Schaffer with
16 regard to anything having to do with Whitewater or
17 Madison?

18 MR. SNYDER: What time frame did you say?

19 MR. GIUFFRA: '93 and '94.

20 THE WITNESS: If the President spoke to
21 Beverly at the Arkansas basketball game, that would
22 be the only time I would be aware that he spoke to

1 Beverly during that time frame.

2 BY MR. GIUFFRA:

3 Q And your testimony is you don't know
4 whether he did?

5 A I would assume he spoke to her. I don't
6 have a recollection that we spoke about or that he
7 spoke to her in my presence about Whitewater.

8 Q Do you know whether he spoke to Mr. Archie
9 Schaffer about Whitewater at any time?

10 A Again, the only thing I would be aware of
11 is what happened in my presence, and I don't have any
12 specific recollection. I remember that I spoke to
13 Archie about Whitewater -- about Beverly, which is
14 different than Whitewater, but about Beverly and
15 about how Beverly felt she had been treated by the
16 press. But again, I don't remember whether the
17 President was involved in any of that conversation or
18 not. I don't think he was, but I don't remember
19 whether he was or wasn't.

20 Q Your testimony is you don't know one way or
21 the other whether the President might have
22 participated in a conversation with Ms. Schaffer at

1 the basketball game about Whitewater or Madison or
2 Mr. Schaffer?

3 A The only thing -- yeah. The only thing I
4 would ever be aware of is what happened in my
5 presence.

6 Q Or if he told you?

7 A Or if he told me. I don't remember him
8 telling me and I don't have any specific recollection
9 of his being present at the same time I spoke to
10 Archie about this. I don't know if I ever spoke to
11 Beverly about this because I think after speaking to
12 Archie I got the impression that Beverly was upset
13 about it and that it was not a good idea to bring it
14 up because she was very upset about it, so I would
15 have probably avoided it to try and not upset her.

16 Q Did you ever get any indication from
17 Beverly Schaffer that statements she made during the
18 campaign she might have to correct during '93 or '94?

19 A No.

20 Q You never got any indication from
21 Mr. Schaffer to that effect?

22 A No.

1 Q Neither Mr. Schaffer or Mrs. Schaffer ever
2 indicated to you about statements she made during the
3 campaign about Madison or Whitewater?

4 A No. They expressed concern about the way
5 her statements were characterized but not about their
6 statements. She felt like she had spent a lot of
7 time with Jeff Gerth going over for him, explaining
8 for him what had happened and thought that the way
9 she was portrayed in his articles were unfair and did
10 not represent the time she had spent and the effort
11 she had made.

12 Q What specifically did Ms. Schaffer object
13 to with regard to the reporting of Mr. Gerth?

14 A That he -- I think she went through -- I
15 think she familiarized herself with a lot -- I think
16 she wrote three or four memos to him outlining what
17 steps she did take, what she -- what efforts she
18 made, that there's a reference, for example, in this
19 editorial about her doing nothing to shut him down.

20 Well, of course, if the state shuts down an
21 S&L, the people who have their money there are not
22 eligible for the federal guarantee and so therefore,

14

1 she felt like she did everything she could to
2 encourage the Feds to shut them down, but a
3 suggestion that the state should have just walked in
4 there and shut them down at some point she thought
5 was totally unrealistic. I think she tried to
6 explain that to him, to indicate what steps she took,
7 and felt like he ignored most of it and wrote what he
8 wanted to write.

9 Q Mr. Lindsey, are you aware of the billing
10 records that the White House produced to the
11 Committee last Friday?

12 A Am I aware of them -- I know they produced
13 it. I've read about them.

14 Q The Rose Law Firm billing records?

15 A I've read about them.

16 Q Have you ever seen those billing records?

17 A I actually saw them this morning.

18 Q Had you ever seen them during the 1992
19 presidential campaign?

20 A No.

21 Q Had you ever seen them during 1993?

22 A No.

1 Q 1994?

2 A No.

3 Q So the first time you've ever seen those
4 billing records was this morning?

5 A Right.

6 Q Did you ever have any discussions with
7 Mr. Webster Hubbell about Rose Law Firm billing
8 records?

9 A No.

10 Q Have you ever had any discussion with
11 Mr. Vincent Foster about Rose Law Firm billing
12 records?

13 A No.

14 Q Have you ever had any discussion with
15 Mrs. Clinton about Rose Law Firm billing records?

16 A No.

17 Q Ever have any discussion with -- strike
18 that.

19 Now, I'd like to direct your attention to a
20 meeting that was held at Williams & Connolly on
21 November 5, 1993. Do you recall attending that
22 meeting?

1 A Yes.

2 Q Was that the first communication that you
3 had with Mr. Kendall?

4 A Probably.

5 Q And what was the purpose of that meeting?

6 A To bring him up to speed on Whitewater and
7 what had gone on before.

8 Q Now, was the purpose of the meeting to
9 impart to Mr. Kendall information that persons at the
10 White House had gathered with respect to Whitewater?

11 A I'm not sure gathered, but that we had.

12 Q The White House --

13 A Yeah, but White House -- it was also Jim
14 Lyons. It was all the information from the campaign,
15 from the Lyons report, from Arkansas that we had.

16 Q Who do you recall planning the meeting?

17 A I don't have any idea.

18 Q Do you remember who advised you of the
19 meeting?

20 A It would be a guess. It would be that
21 Bernie told me about it or invited me. Looking at
22 the list, I don't think I had -- I don't know if I

1 had ever met Kendall before then and I can't imagine
2 any of the other people having done that. While I
3 don't have any memory of Bernie doing it, he would
4 have been the only logical one of doing it.

5 Q Were the President and First Lady aware of
6 this meeting?

7 A I don't know.

8 Q Have you ever discussed with the President
9 what transpired at this meeting?

10 A No.

11 Q Have you ever discussed with the First Lady
12 what transpired at this meeting?

13 A No.

14 Q Now, was this the only meeting you attended
15 with Mr. Kendall from November 5, 1993 to the
16 present?

17 A No.

18 Q What other meetings have you attended with
19 Mr. Kendall?

20 A I don't know if I could -- we've had
21 various meetings at the White House that he would
22 attend, either he or one of his associates. I

1 couldn't detail them for you because -- I don't
2 remember a specific one, but over a period of the
3 next couple of months when we would have a meeting,
4 at the time when we had this sort of working group, I
5 think he might have been at some of those. I've
6 attended meetings -- I attended a meeting with
7 Mr. Kendall in Denver, Colorado with Jim Lyons and
8 people from Patton, McCarthy.

9 Q Do you recall when that meeting was?

10 A March of '94, and I remember at least a
11 meeting that I had with, maybe more than one, but
12 only one I guess I can clearly remember involving the
13 President and the First Lady and David Kendall.

14 Q Do you recall when that meeting was?

15 A No. I mean, it would have been sometime in
16 either late '93 or early '94, but I don't recall. I
17 think Bernie was in it, I think, so it had to be
18 before March of '94.

19 Q Your recollection would be that
20 Mr. Nussbaum attended this meeting with the President
21 and First Lady, Mr. Kendall and yourself?

22 A Yes.

1 Q So it would be before March '94. Do you
2 recall any other meetings involving yourself and
3 Mr. Kendall?

4 A I remember around the time we were turning
5 over documents to the Justice Department. I guess
6 this is before the Independent Counsel.
7 Mr. Mackay --

8 Q Was the White House turning over documents?

9 A No, it was Mr. Kendall turning over
10 documents. I issued, though, on behalf of the White
11 House one, maybe two statements. We turned over the
12 documents in two different groups, half of them the
13 first time, and five and five. I think they
14 ultimately represented about 10 boxes. I met with
15 him, I think, one time in the counsel's office in
16 which we discussed the public statement.

17 MR. SNYDER: Be careful about --

18 THE WITNESS: We discussed the statement
19 that I issued.

20 MR. SNYDER: I just want to note for the
21 record I haven't interposed any objections because at
22 this point, as I understand the questions and the

20

1 responses, you've just been asking for whether there
2 were meetings and who attended and so I have not
3 objected. But obviously, there are issues of
4 attorney-client privilege which have been discussed
5 in other forums and my understanding is that there's
6 been a waiver of attorney-client privilege vis-a-vis
7 the November 5 meeting with Mr. Kendall, but as I
8 understand it, there has not been a waiver of with
9 regard to other meetings that have similar
10 attorney-client privilege and related privilege
11 issues.

12 MR. KRAVITZ: And the Committee has made
13 clear that it does not view the waiver of the
14 privilege as to the November 5, 1993 meeting as a
15 general waiver affecting any other privileged
16 meetings.

17 MR. GIUFFRA: Has Mr. Kendall instructed
18 Mr. Lindsey to not answer questions with regard to
19 the substance of any other meetings he may have had
20 with Mr. Kendall on grounds of attorney-client
21 privilege?

22 MR. SNYDER: I have been advised by

1 Mr. Kendall's office and by the White House counsel's
2 office that there has been no waiver of
3 attorney-client privilege with regard to other
4 discussions with Mr. Kendall and we have not received
5 any instructions. We've just been informed that
6 there's been no waiver, and therefore, I do not
7 believe that Mr. Lindsey is free to testify about the
8 substance of any discussions he had with counsel for
9 the President. And if there are issues about that,
10 obviously, you should consult with the White House
11 counsel's office or Mr. Kendall as appropriate.

12 MR. GIUFFRA: I don't see a problem with
13 identifying the communications. It's obviously the
14 substantive communication where the problem is.

15 MR. SNYDER: I have not objected to any of
16 your questions so far. I wanted to make it clear for
17 the record.

18 MR. KRAVITZ: Let me make one other
19 suggestion. In the event that Mr. Lindsey testifies
20 before the Committee next week or some other time in
21 the near future regarding the November 5, 1993
22 meeting, that rather than asking Mr. Lindsey about

1 these other meetings or the substance of these other
2 meetings at the public hearing without having
3 broached the subject first with the White House and
4 Mr. Kendall, that the Committee approach Mr. Kendall
5 and the White House, if it's interested in the
6 substance of these other meetings, in advance so that
7 Mr. Lindsey is not faced with having to be conferring
8 with his lawyer on national television and then have
9 his picture in the paper the next morning, as what
10 happened to him the last time he was here.

11 Would you agree, Bob, that that's an
12 appropriate approach to take?

13 MR. GIUFFRA: We'll take that under
14 advisement.

15 MR. SNYDER: I strongly associate myself
16 with Mr. Kravitz's request and remarks.

17 THE WITNESS: So do I.

18 BY MR. GIUFFRA:

19 Q Mr. Lindsey, can you recall any other
20 meetings you might have attended with Mr. Kendall?

21 A Not specifically. I mean, there would be a
22 lot of times when I would get inquiries from the

1 press that I would speak to him or he would get them
2 or we would both get them, frankly. I think a lot of
3 times, if they called me, they would call him. We
4 compared notes. A lot of that would be done by
5 phone. But no, I can't conjure up in my mind any
6 other specific meetings, but I'm sure there were
7 some.

8 Q What would be your best estimate of the
9 number of meetings you held with Mr. David Kendall?

10 MR. SNYDER: By meetings, do you include
11 telephone conversations?

12 MR. GIUFFRA: No. Just face-to-face
13 meetings.

14 MR. SNYDER: Can I also clarify the time
15 frame? Do you mean up to date?

16 MR. GIUFFRA: That would be between
17 November 5, 1993, and I think today is the 10th.

18 MR. SNYDER: Let me just interrupt for a
19 moment. I was under the impression that there was
20 some understanding between the White House counsel's
21 office and the Committee that there would not even be
22 questions asked about communications beyond a certain

1 point in time, whether it's when this Committee's
2 proceedings began or whether it's when the
3 Independent Counsel's proceedings began. At some
4 point in time, the discussions between counsel the
5 Committee wasn't even going to ask about. I'm not
6 clear of the details of that.

7 MR. GIUFFRA: I think what you're
8 referencing is the initial subpoena that was sent, I
9 believe, in October had an end date of, I believe,
10 March 4, 1994.

11 MR. SNYDER: That is what I'm referring to.

12 MR. GIUFFRA: But the Committee always
13 reserves its right to ask for information after that
14 date. And really what I'm trying to do here is just
15 identify meetings to the extent there were meetings
16 and not ask about the substance of them.

17 MR. KRAVITZ: Let me just say, my
18 understanding of the background of that agreement of
19 the March 4, 1994 date was that the Committee
20 recognized that it had no legitimate purpose in
21 investigating work that the White House counsel's
22 office did in preparation for Congressional

1 hearings.

2 I'm not sure that analogous agreements were
3 ever reached between the Committee and Mr. Kendall,
4 but it would seem to me that the same approach would
5 apply. If whatever conversations Mr. Lindsey may
6 have had with Mr. Kendall since that time had to do
7 with preparation for a Congressional hearings, I
8 would think that the same approach would apply. Of
9 course, I have no idea what the answer is. Maybe you
10 need to consult with Mr. Lindsey about that.

11 MR. GIUFFRA: Why don't we see if we can
12 just get an answer to the question.

13 BY MR. GIUFFRA:

14 Q Do you have any rough estimate of the
15 number of meetings you might have had with
16 Mr. Kendall between November 5 --

17 A It's just a guess --

18 Q -- '93 to the present?

19 A I would think -- again, it's hard to
20 remember. Sometimes when we would be -- again, in
21 late '93, early '94, sometimes he might be there.
22 Sometimes one of his associates might be there.

1 Sometimes they might be on a conference call. So you
2 know, I can't remember whether he was there in person
3 or whether he was at the other end of a
4 speakerphone. But I would think it would be less
5 than a dozen.

6 Q And would it be your testimony that the
7 bulk of those meetings occurred in late '93, early
8 '94?

9 A Yeah, I think so.

10 Q With regard to those meetings that you
11 might have attended with Mr. Kendall, did you take
12 any notes?

13 A If I did, you have them. I mean, I don't
14 remember taking specific notes.

15 Q So as far as you know, you're not
16 personally withholding any notes that you might have
17 taken at meetings with Mr. Kendall on grounds of
18 attorney-client privilege?

19 A Is that right?

20 MR. SNYDER: That's my understanding.

21 BY MR. GIUFFRA:

22 Q You're not asserting attorney-client

1 privilege with regard to any documents that are in
2 your possession, custody or control?

3 MR. SNYDER: We have not. With regard to
4 the Senate, I don't think you have asked for any
5 documents. If you had, we would have asserted the
6 privilege. If we had something that was responsive.
7 Give me a moment.

8 (Witness conferred with counsel.)

9 MR. SNYDER: I don't frankly remember
10 exactly what you've asked for and what we've
11 produced, but any documents you've asked for, if we
12 had documents responsive to your request that we were
13 withholding based on attorney-client privilege, we
14 would have told you, and I'm not aware of any such
15 issues.

16 MR. GIUFFRA: Could you just check to
17 ascertain whether there are any such documents,
18 because our request to Mr. Lindsey were, in short,
19 for any documents that refer or relate to Madison.
20 So if he had communications about those subjects with
21 Mr. Kendall, those documents would be called for.

22 MR. SNYDER: I don't think there are any

1 such documents, but I'll check. But I don't think
2 there are.

3 BY MR. GIUFFRA:

4 Q Mr. Lindsey, would you have been
5 Mr. Kendall's primary contact at the White House
6 during this period, late '93 and early '94?

7 A I have no idea. I doubt that. I would
8 have thought others -- he would have contacted others
9 as well as me. I mean -- main contact -- I mean, he
10 and I spoke, but I would have thought he would have
11 spoken to others on a fairly regular basis.

12 Q Would those have included Mr. Nussbaum?

13 A Yes.

14 Q Mr. Eggleston?

15 A I don't know, but probably.

16 Q Who else might he have spoken to during
17 this period?

18 A I would think Mr. Podesta.

19 MR. KRAVITZ: Are you asking him to
20 speculate or who he knows that he talked to?

21 THE WITNESS: Again, part of it is I have a
22 memory during this period when we had this sort of

1 working group that he was involved. And John was
2 involved in that. Harold to some extent. I don't
3 know whether they spoke with --

4 BY MR. GIUFFRA:

5 Q This would be Harold Ickes?

6 A Yes. Again, I would be speculating. I
7 would be guessing -- I wouldn't be speculating
8 because I don't know whether they did or not. They
9 were just involved in these matters around this time
10 period.

11 Q Let me show you a document. Now, this is
12 something the Committee prepared from a chronology
13 that we were shown by the White House about a week or
14 two ago, and we attempted to transcribe it verbatim.
15 It says across the top "DEK 11/10/93." There's a fax
16 line on it, November 10, '93, Wednesday, 10:27. I
17 believe it was found in Mr. Eggleston's files.

18 Off the record.

19 (Discussion off the record.)

20 MR. SNYDER: Would you repeat the pending
21 question?

22 MR. GIUFFRA: Why don't I just restate it.

1 BY MR. GIUFFRA:

2 Q Did there come a time in approximately
3 November 1993 when you were shown a chronology
4 prepared by David Kendall of the Williams & Connolly
5 law firm?

6 A I don't know.

7 Q Is it possible you might have seen such a
8 chronology?

9 A Yes.

10 Q Is it possible you may have provided
11 comments on such a chronology?

12 A It's possible.

13 Q Did there ever come a time when you
14 provided information on a chronology to Mr. Kendall
15 that he may have prepared?

16 A Again, I don't specifically recall a
17 chronology. There were several chronologies going
18 around. I don't specifically recall a David Kendall
19 chronology, but I would have responded -- I made
20 notes on several chronologies. So again, I just
21 don't remember this particular one.

22 Q Do you recall any chronologies that

1 Mr. Neil Eggleston might have prepared in the period
2 late '93 or early '94?

3 A Again, I have some recollection that Neil
4 did a chronology, yes.

5 Q The document bears Bates numbers Z 000078,
6 79, 0, 81, 82, 83, 84, 85 and then it goes to 126,
7 127, 128, 129, 130, 131, 132, 133, 134, 135, 136.
8 You may have seen this document previously?

9 A Is this one document?

10 Q It may be several different documents.

11 A I have the chronology part, which is like
12 78, which is redacted, and 79. Yes, I've seen, I
13 think, the Q and A, for example, which is 80 --
14 there's a Q and A, it looks like, in 80 and then in
15 81 appears to be chronology with different dates on
16 them, so I've seen Qs and As. Whether I've seen this
17 particular Q and A or not, I don't know.

18 Then you have a couple more pages of what
19 looks like a chronology. Then you have something
20 called "Synopsis of Whitewater." I don't remember --
21 I don't have a memory of seeing anything that said
22 "synopsis."

1 Q Do you have a recollection whether these
2 materials were shared with Mr. Kendall?

3 A That, I don't know.

4 Q Do you know why the materials were
5 prepared?

6 A No. Then you have something called "the
7 Foster suicide and subsequent events" which is a
8 Roman numeral and several paragraphs that look,
9 again, different than others, though that may be part
10 of the synopsis. I don't know. Parts of it I have
11 seen, I think; other parts I may have seen, but I
12 can't recall.

13 Q Do you have any understanding as to who
14 else at the White House might have spoken with
15 Mr. Kendall in this period, late '93, '94?

16 A No.

17 Q The names you just ticked off -- the people
18 who were on the Whitewater response team?

19 A The response team I would have thought
20 would have had contact with him. I don't know who
21 else.

22 Q Do you know whether he ever attended any

1 meetings of the Whitewater response team?

2 A Again, I have a memory of either he being
3 there, one of his associates being there, yes, or
4 them being on the other end of the speakerphone and
5 it may have been one time they were there or one time
6 they were on the other end of the speakerphone.

7 Q Other than the meeting you identified
8 sometime before March of '94, can you recall any
9 other meetings that you or yourself or the President
10 or First Lady attended?

11 MR. KRAVITZ: Can you state that again?

12 BY MR. GIUFFRA:

13 Q I'll rephrase the question. Other than the
14 meeting you identified --

15 A Which I thought Mr. Nussbaum attended.

16 Q -- prior to March '94, do you recall any
17 other meetings that you attended, Mr. Kendall
18 attended, the President attended and the First Lady
19 attended?

20 A Related to Whitewater?

21 Q Yes.

22 A No.

1 Q Any other meetings you might have attended
2 related to Whitewater/Madison?

3 (Witness conferred with counsel.)

4 THE WITNESS: No.

5 BY MR. GIUFFRA:

6 Q Relating to any of the subjects identified
7 in Senate Resolution 120?

8 A No.

9 Q Do you recall where the meeting you
10 attended with Mr. Nussbaum, Mr. Kendall, the
11 President or the First Lady was held?

12 A In the residence.

13 Q Do you know whether anyone took any notes
14 at that meeting?

15 A No.

16 Q If I ask any questions about the substance
17 of it, your attorney would interject the
18 attorney-client privilege?

19 MR. SNYDER: Yes.

20 BY MR. GIUFFRA:

21 Q At that time, were you serving as an
22 attorney for the President and First Lady?

1 A I believe I have an attorney-client
2 privilege with the Clintons, yes, and I believe I had
3 it at that time and had it before that and I had it
4 after that.

5 Q And that's for all the reasons you've
6 previously stated on the record?

7 A Yes.

8 MR. SNYDER: As well as the reasons, I
9 think, articulated in more detail in the filing made
10 by Williams & Connolly relating to the privilege
11 issues.

12 BY MR. GIUFFRA:

13 Q Let me show you another document that bears
14 Bates number CGE 12286 forward to CGE 12294 and it
15 has several pages and attachments. Have you ever
16 seen this document before?

17 A Yes.

18 Q When was the first time you saw it?

19 A This morning.

20 Q Never saw it before?

21 A No.

22 Q Let me show you another document that bears

1 Bates numbers S 12579, 12580. It's a March 2nd
2 letter --

3 MR. KRAVITZ: March 2, what year?

4 MR. GIUFFRA: 1994.

5 BY MR. GIUFFRA:

6 Q James Carville is the signatory. It's a
7 draft from The New York Times and has handwriting
8 across the top.

9 A Yes.

10 Q What can you tell us about this letter?

11 A Apparently -- apparently at one point I saw
12 it, made some comments on it.

13 Q There's some handwriting of yours on the
14 right-hand side. What is that handwriting?

15 A It says "factually okay, but the timing may
16 be bad after Web. Bruce." That's up there. Down
17 here I circled the word "borrowers" and said "as far
18 as I know, the Clintons were not borrowers."

19 Q When was the first time you heard that
20 Mr. Hubbell might have difficulties with the Rose Law
21 Firm with regard to his billing disbursements?

22 A I have no idea. I mean, I'm trying to --

1 Q Would it have been before year end 1993 or
2 after year end 1993?

3 A It would have been around the time it was
4 public, but I can't tell you when that is.

5 Q Do you recall who would have told you about
6 it?

7 A No. I may have read it in the paper. I
8 don't have any memory of anybody telling me
9 independently of reading about it. I can't recall
10 quite how it became a public issue, so I'm having
11 some trouble putting it into any sort of context.

12 Q Let me show you a documents which bears
13 Bates number S 12529 through S 12538. Have you seen
14 this document before?

15 A Yes.

16 Q And when was the first time you saw this
17 document?

18 A After it was made public.

19 Q So in the last month or so?

20 A Yes.

21 Q Have you ever discussed this document with
22 Mr. Kennedy?

1 A No.

2 Q Other than your lawyer, have you discussed
3 this document with anyone?

4 A No. The substance of it?

5 Q Yes.

6 A No.

7 MR. KRAVITZ: Do you mean to include the
8 handwritten version as well, Bob, in those
9 questions?

10 MR. GIUFFRA: There is a handwritten
11 version for ease of reference, and speeding the
12 deposition up, I was going to stick with the
13 typewritten version although there are some slight
14 distinctions between the two.

15 BY MR. GIUFFRA:

16 Q I can show you the handwritten version and
17 ask you about that. This bears Bates number 12517
18 through 12528.

19 A Yeah. I've not discussed the substance of
20 it. I sent a copy of this to Jim Lyons when I got
21 it, but we didn't discuss it.

22 Q Within the last month?

1 A Yeah. I mean, he just simply -- when he
2 heard that it was being released, he asked me if I
3 had a copy. I told him I did, and I sent it to him,
4 but other than that, I hadn't talked to him about it.

5 Q About how long did this meeting take?

6 A If I was guessing, I would say three or
7 four hours. I have some memory that we sent out for
8 sandwiches, so I think it started sometime in the
9 morning and ended sometime after lunch.

10 Q Did Mr. Lyons and Mr. Engstrom fly to
11 Washington for the meeting?

12 A They were at the meeting. I assume they
13 flew.

14 Q But did they come just for the meeting?

15 A Again, I don't have any idea.

16 Q Was anybody else supposed to attend the
17 meeting, but did not for some reason?

18 A Not that I'm aware of.

19 Q Do you know if Mr. Blair was invited to
20 attend?

21 A I do not.

22 Q Do you know if Mr. Hubbell was invited to

1 attend?

2 A I do not.

3 Q Do you know if Mrs. Thomases was invited to
4 attend?

5 A I do not.

6 Q Do you know if Mr. Barnett was invited to
7 attend?

8 A Barnett?

9 Q Barnett of the Williams & Connolly law
10 firm.

11 A No, I do not. I didn't believe that Bob
12 Barnett was employed until after this, but anyway,
13 no.

14 Q And the meeting was held at Williams &
15 Connolly?

16 MR. SNYDER: He was there. Bob Barnett?

17 MR. GIUFFRA: Let's go off the record.

18 (Discussion off the record.)

19 THE WITNESS: I was thinking of Bennett.

20 Barnett, yes. I think Bob was not -- actually, I
21 think I went in to Bob Barnett's office before we
22 began this meeting, and he told me what a great guy

1 David Kendall was. But I think clearly by this
2 point, he had made a judgment that because of his
3 wife's position he should not be involved. So I
4 would be surprised if he was invited to attend
5 because he was certainly disengaging himself from his
6 representation at that point. Sorry.

7 BY MR. GIUFFRA:

8 Q Are you aware that in releasing these
9 documents, the White House provided to the press a
10 version that contained a key indicating where the
11 information set forth within the notes came from?

12 A Yes.

13 Q Did you participate in the creation of that
14 key?

15 A No.

16 Q Did you participate in the gathering --

17 A Well, some of the references were to my
18 documents, so to the extent I wrote the documents
19 that are referenced in it, I participated in it. But
20 no, I did not participate in doing the key.

21 Q Do you know whether the newspaper articles
22 that are referenced within the key, were they in your

1 possession at the time of the meeting?

2 MR. SNYDER: All of it?

3 MR. GIUFFRA: Yes.

4 THE WITNESS: Interesting. I've read all
5 of them since then. I think I did have all of them
6 at the time of the meeting.

7 BY MR. GIUFFRA:

8 Q You think that you probably personally had
9 copies of all the newspaper articles that are
10 referenced in the key that was provided by the White
11 House to the press?

12 A The index -- well, I did not have the
13 National Journal article at the time of the meeting
14 since it wasn't published until February of '94. I
15 either had or had read all the other articles. I
16 know I would have had the article on the 8th.
17 Whether I had Gwen Ifill's article follow-up on the
18 9th, I know I read it during the campaign, but I
19 don't know if I would have physically had it.

20 Q As of November 5, 1993, you would have been
21 the primary repository for Whitewater-related
22 articles at the White House?

1 A Probably.

2 Q You would have been the person who had this
3 information, people who were attending the meeting?

4 A I'm sorry.

5 Q Of the people who attended the November 5
6 meeting, you would probably have been the person who
7 had all the articles?

8 A Yeah, Jim Lyons may have kept most of them
9 too, but yes, I think that's true.

10 Q Did you have a subscription to the Arkansas
11 Democrat Gazette at this time?

12 A Yes.

13 Q All the other papers you would have
14 receiving on daily copies?

15 A Right.

16 Q Or weekly, depending on the weeklies?

17 A Right.

18 Q Who ran this meeting?

19 A I think probably Kendall.

20 Q At the outset of the meeting, did
21 Mr. Kendall state what he believed to be the purpose
22 of the meeting?

1 A Well, again, in looking at the notes, the
2 notes refresh my memory that I think he did. I don't
3 have independent recollection of who said what where,
4 but my understanding is that he says that the first
5 four references are his and that's consistent with
6 what I remember.

7 Q And what is your recollection with regard
8 to who was to gather the facts?

9 A I think partially what we were doing at
10 that meeting was gathering the facts. I mean, I
11 think he was, in effect, saying I need to gather all
12 the facts so it was gathering -- he was the gatherer,
13 if you will. I think most of this was what he what
14 he was saying he needed to do. He was coming on
15 board, getting up to speed. This is what he had to
16 do in order to represent the Clintons.

17 Q Was the purpose of gathering the facts to
18 allow him to respond solely to press inquiries or for
19 other purposes?

20 A He had a client to represent. I think he
21 was representing his client.

22 Q Did Mr. Nussbaum indicate to you what he

1 believed the purpose of the meeting was?

2 A I don't have any independent recollection
3 of it, no.

4 Q Now, in the handwritten version of this
5 document, page 12517, there's a reference after it
6 which says "gather the facts to chronologies,
7 et cetera." Do you know what that refers to?

8 A No. I mean, I can speculate, but no.

9 Q If you were to speculate, what would you
10 say?

11 A Well, basically what is below here is a
12 chronology. I mean, we went through --

13 Q Was there a discussion that Mr. Kendall
14 would prepare a chronology and send it back to you?

15 A Again, I don't remember that there was a
16 specific -- there was a goal of a specific document
17 that was being produced. I think we went through the
18 chronology of what happened as part of the fact
19 gathering. So I don't remember that being a task,
20 that there would be a chronology prepared.

21 Q The reference to "try to find out what's
22 going on in investigation," do you know what that

1 refers to?

2 A I know what the words mean. I don't
3 know --

4 Q Was there any discussion that you needed to
5 find out what was going on in the investigation at
6 the meeting?

7 A No. I mean, I have a sense that again, we
8 had been told -- it was public that there were
9 referrals and that was why David Kendall had been
10 hired and he was -- I think part of what he thought
11 his responsibility was was to find out what was going
12 on.

13 Q Was there any discussion at this meeting of
14 the fact that on October 14, 1993 there had been a
15 meeting involving Ms. Hanson and Mr. Nussbaum and
16 Mr. Eggleston and I think yourself as well?

17 A Other than I think that probably I related
18 the issue that came up in that meeting -- in this
19 meeting, but I don't think there was an independent
20 discussion or independent reference to the meeting.
21 There are notes. If you, for example, go to --

22 Q 12530?

1 A 34 is what I was referring to. "Charles
2 Peacock, proceeds went from Charles to Clinton
3 campaign, 3000, 12,000 could all come from Charles
4 Peacock loan. 1500 per election," all of that is a
5 reference to what Jeff Gerth's question that was the
6 cause for the October 14th meeting was. So we went
7 over the factual parts of it, but I don't believe we
8 discussed that there was a meeting.

9 Q Was there any discussion of anything that
10 occurred at the October 14 meeting at this meeting on
11 November 5?

12 A I don't recall. I mean, are you talking
13 about --

14 Q The meeting with DeVore and Hanson and
15 Steiner?

16 A We said we met with DeVore, Steiner, Hanson
17 at the White House on the 14th, that we talked about
18 the meeting as opposed to the substance of the
19 meeting?

20 Q Let's do both. Do you recall any
21 discussion of the fact that you had the meeting?

22 A I don't recall any, no, but I must tell you

1 what I recall is limited by these notes primarily
2 because I don't have independent memory of what was
3 said.

4 Q Do you recall any discussion of the fact --
5 strike that.

6 Did you bring any notes that you took of
7 the October 14 meeting to this November 5 meeting?

8 A I don't think so.

9 Q Do you recall referencing those notes
10 during the meeting?

11 A I don't remember referencing the notes. I
12 remember referencing the information in the notes. I
13 remember -- I see it here.

14 Q The information of your notes of the --

15 A No, no. I see -- the same information that
16 is in my notes of the October 14th meeting is
17 reflected in these notes. So I clearly referenced
18 the subject of the discussion. Now, I don't believe
19 I referenced that I had notes or that there was a
20 meeting. I think I just simply in referencing the
21 facts, what the press was looking at, what the issues
22 were, I related that one of the issues was where

1 these four checks came from from the 1985 fundraiser,
2 and I went through what Gerth's allegations were as
3 to where that information came from or where those
4 checks came from.

5 Q Do you recall any discussion at the meeting
6 of the fact that there actually were RTC criminal
7 referrals in which the Clintons were named as
8 witnesses?

9 A Again, by this point, I think that was a
10 given.

11 Q But I mean, there's a difference between
12 the fact that it may be reported in the newspapers
13 and the fact that you were advised of the existence
14 of such referrals by people at the Treasury
15 Department.

16 A No. I think it was a given that there were
17 referrals that mentioned the Clintons, but I don't
18 think there was a discussion about the fact that Jean
19 Hanson had told Bernie about these referrals.

20 Q Do you recall any discussion of Jean Hanson
21 at this meeting?

22 A No.

1 Q Do you recall any discussion of Roger
2 Altman at this meeting?

3 A No.

4 Q Do you recall any discussion of Mr. DeVore
5 at this meeting?

6 A No.

7 Q Do you recall any discussion of anybody
8 from the Treasury Department at this meeting?

9 A No.

10 Q Any discussion of anybody at the RTC at
11 this meeting -- why don't I get more specific.

12 Do you recall any discussion of Ellen Kulka
13 at this meeting?

14 A No.

15 Q Do you recall any discussion of Jean Lewis
16 at this meeting?

17 A That's the one -- I was trying to see if
18 there's a reference anywhere in this to Jean Lewis,
19 but no. I mean, there was no reference to Jean Lewis
20 as Jean Lewis. There may have been a reference that
21 Jean Lewis was the person at the RTC who did the
22 referrals. But again, I don't know.

1 MR. KRAVITZ: I don't remember what page
2 it's on. There is some reference in the notes to
3 people at the RTC who were trying to get the
4 Clintons. I don't know if that may be what you're
5 referring to.

6 MR. GIUFFRA: We'll get to that.

7 THE WITNESS: Again, I don't remember
8 specifically whether Jean Lewis was mentioned or not
9 mentioned.

10 BY MR. GIUFFRA:

11 Q Did you -- do you recall whether anyone at
12 the meeting brought any documents with them to the
13 meeting?

14 A I believe I did.

15 Q What documents do you recall bringing to
16 the meeting?

17 A I don't recall bringing them. So
18 independently, I believe that I brought some
19 International Paper documents, and I believe I
20 brought the checks.

21 Q That would be the campaign contribution
22 checks from the '85 fundraiser?

1 A Yes.

2 Q And the International Paper documents would
3 be specifically what documents?

4 A I believe by then I had a copy of the
5 warranty deed, the mortgage. I don't know if I had
6 the foreclosure or not.

7 Q Did you provide copies of these documents
8 to Mr. Kendall?

9 A I think so.

10 Q That would include the checks as well as
11 the International Paper documents?

12 A Yes.

13 Q Was anyone contacted by phone or fax during
14 the meeting, to the best of your recollection?

15 A Not that I recall.

16 Q Did anyone attend the meeting by conference
17 call that you can recall?

18 A No.

19 Q Do you recall whether the meeting was
20 taped?

21 A I don't believe so. Not on any system I
22 saw.

1 Q That's one of the lessons.

2 Off the record.

3 (Discussion off the record.)

4 BY MR. GIUFFRA:

5 Q Was there a written agenda for this
6 meeting?

7 A Not that I remember.

8 Q At the conclusion of the meeting, was
9 anyone at the meeting tasked to take any action?

10 A Not that I recall.

11 Q Was anyone advised to contact Mr. Blair?

12 A I don't recall that.

13 Q Anyone advised to contact the President?

14 A I don't recall that.

15 Q Was anyone asked to take any action with
16 regard to any government investigation at the
17 meeting?

18 A Well, again the notes reflect that at some
19 point I think David Kendall indicated he thought he
20 could find out what happened to the airplane through
21 the FAA.

22 Q That would be the airplane that was swapped

1 for various --

2 A Part of the purchase price on the
3 remaining -- on the 24 Whitewater lots.

4 Q Do you recall any other discussion of the
5 need to contact regulators or investigators at the
6 meeting?

7 A No.

8 Q Do you recall any discussion of the SBA,
9 the need to contact the SBA at this meeting?

10 A No.

11 Q Do you recall Mr. Eggleston being given any
12 instruction at this meeting to take any action with
13 regard to the SBA?

14 A No.

15 Q And you're aware that there came a time
16 after this meeting where Mr. Eggleston gained certain
17 information from the SBA?

18 A Yes.

19 Q Did he -- do you know whether he ever
20 discussed that information with Mr. Kendall?

21 A Not that I'm aware of.

22 Q Do you know whether he ever provided a copy

1 of that information to Mr. Kendall?

2 A No.

3 Q Did you ever discuss that information that
4 was contained in the SBA referral with Mr. Kendall?

5 A Again, I do in these notes, so beyond
6 what's reflected in these notes which came from Jeff
7 Gerth, no.

8 Q What I'm focusing on was the material --
9 did there come a time -- I think you previously
10 testified to this -- that the White House obtained
11 certain information from the SBA?

12 A Right.

13 Q Did you ever discuss any of that
14 information with Mr. Kendall?

15 A No. I never -- the only thing I ever
16 obtained from the SBA or ever saw from the SBA was a
17 copy of the cover letter, and I have no memory of
18 discussing that with Mr. Kendall.

19 Q Do you know whether Mr. Eggleston ever
20 discussed the information he obtained from the SBA
21 with Mr. Kendall?

22 A No.

1 Q Was anyone asked at the meeting to find out
2 the status of the RTC investigation into Madison,
3 Whitewater and the Rose Law Firm?

4 A No. I mean, no.

5 Q After the meeting, did you have any
6 conversations with Mr. Lyons about what had
7 transpired at the meeting?

8 A Not that I recall.

9 Q Not to ask the question twice, but I want
10 to make sure on this. No one was tasked by anyone to
11 ask for any information following this meeting?

12 A Not that I recall.

13 Q Was anyone --

14 MR. KRAVITZ: I think he's testified that
15 Mr. Kendall essentially tasked himself --

16 BY MR. GIUFFRA:

17 Q Other than trying to call the FAA --

18 A I'm sorry. You asked about the RTC
19 investigation. I think in some ways, Kendall tasked
20 himself to learn as much as he could about the RTC,
21 but no, I don't believe there was any tasking by
22 Mr. Kendall or by anybody else to anyone other than

1 Mr. Kendall basically tasking himself as to what he
2 thought he had to get up to speed.

3 Q As far as you knew, from this date forward,
4 Mr. Kendall would be the one handling the Clintons
5 legal representation with regard to Madison or
6 Whitewater?

7 A That's probably broader than I would say.
8 I do believe the President has -- is different than
9 everybody else in that he's always the President and
10 so to say that he would handle everything, obviously,
11 to this day, he doesn't handle everything. But yes,
12 with respect to the representation of the Clintons
13 with respect to the RTC referrals and that matter,
14 that would be David Kendall's responsibility.

15 MR. KRAVITZ: Bob, can I ask one or two
16 questions because we may run out of time?

17 MR. GIUFFRA: Sure.

18 EXAMINATION

19 BY MR. KRAVITZ:

20 Q On November 5, 1993, did Mr. Kendall or any
21 of the other private attorneys ask any of the White
22 House officials present at the meeting to find out

1 any information from government officials about
2 Madison or Whitewater investigations?

3 A No.

4 Q At any time since November 5, 1993, has
5 Mr. Kendall or any of the other private attorneys
6 asked any White House officials, to your knowledge --

7 A To my knowledge, no, they never asked me.
8 And I've never had any contact with any federal
9 official, state official, for that matter,
10 investigative official about any matter related to
11 any of this.

12 EXAMINATION

13 BY MR. GIUFFRA:

14 Q Or have any indirect contact with an
15 investigative official? You obviously spoke to
16 Ms. Hanson.

17 A Yeah, in response to a press inquiry, and I
18 obviously spoke to Mr. Altman in response to a press
19 inquiry.

20 Q So all of your contacts with Ms. Hanson,
21 Mr. Altman were all strictly related to press
22 inquiries?

1 A The only time I ever spoke to Ms. Hanson
2 about this was at the October 14th meeting. The only
3 time I spoke to Mr. Altman about any of this was in
4 connection with the press inquiry about the meeting
5 that I did not attend but which I've already
6 testified to or which I had notes on.

7 Q Let's just go through some of the things
8 that happened with Mr. Kennedy's notes. Before we go
9 too far, was he the only one taking notes that you
10 can recall at the meeting?

11 A I didn't know he was taking notes. I don't
12 recall anybody taking notes at the meeting. I assume
13 Kendall was taking notes. I mean --

14 Q Was there anyone else besides Mr. Kendall
15 present at the meeting from his firm?

16 A I don't believe so.

17 Q There's a discussion midway through the
18 first page of the typewritten notes where it says
19 "HRC representation...Beverly Bassett...too much
20 coziness." Do you know what that refers to?

21 A Well, right above it, "brother early and
22 strong supporter." Again, we were commenting on the

60

1 fact that the press was suggesting that because
2 Beverly's brother had been a strong supporter and
3 because Beverly had been a supporter, because the
4 President, then governor, had appointed Beverly, that
5 all of that created too cozy a relationship.

6 Q And there was concern, perhaps, that this
7 might be perceived by the media or by the press as an
8 issue of concern?

9 A I think there were already tons of press
10 stories that talk about this cozy little political
11 network down in Arkansas, how the political elite and
12 business elite and others knew each other and dealt
13 with each other. And I'm not sure -- I've listened
14 to Al D'Amato and Larry King call each other "Al" and
15 "Larry" and talk about politics in New York and like
16 two guys from Brooklyn. So I'm not sure that it's
17 that much different in Arkansas than it is anywhere,
18 but at least in the press's mind, they thought that
19 everybody knew everybody.

20 Q Why was the issue of Mrs. Clinton's
21 representation of Madison raised early in the
22 meeting?

1 A That was one of the main issues in the
2 campaign. I mean, Jerry Brown accused the President
3 of funneling business to his wife and his wife
4 representing people before state -- representing
5 clients before state agencies and so I don't quite
6 know why it's early in this meeting, other than that
7 was one of the two or three main issues --

8 Q Of concern?

9 A Well, that come up in the press.

10 Q Do you know who would have raised the
11 issue?

12 A No.

13 Q Do you know a Rick Massey?

14 A I don't know him well. I know who he is.

15 Q Have you ever spoken to Mr. Massey about
16 anything having to do with the Rose Law Firm's
17 representation of Madison Guaranty?

18 A I do not believe so. I don't think so.

19 Q Have you ever received any reports with
20 regard to statements Mr. Massey has made with regard
21 to the Rose Law Firm's representation of Madison
22 Guaranty?

1 A Other than what's been quoted in the
2 press?

3 Q Yes.

4 A I don't believe so.

5 Q If you could turn -- let me just ask you,
6 at the bottom of the first page of the typed notes is
7 a reference to the FBI issuing a subpoena and taking
8 records of a municipal judge named Hale. It says
9 also that "VF killed himself" and it says "factor"
10 below that. What do you recall about that discussion
11 in the course of the meeting?

12 A Again, I can just tell you what the general
13 discussion was, and that was the press were asking --
14 apparently, the subpoena for David Hale's office was
15 issued on the afternoon of July the 20th, though I
16 think the subpoena was actually executed on the 21st,
17 and the press had been asking questions about that
18 and asking whether there was any connection, whether
19 or not -- I think there was some question as to
20 whether or not any of the conversations Vince had
21 could have related to that. But I think again, it
22 was just something that the press was speculating

1 about, was it a factor.

2 Q There was no discussion at the meeting that
3 anyone at the meeting believed that the issuance of
4 this subpoena -- strike that.

5 Was there any discussion amongst the
6 participants at the meeting, other than for press
7 accounts, that the subpoena might have been a factor
8 with regard to Mr. Foster's suicide?

9 A No.

10 Q And as far as you know, Mr. Foster --
11 strike that.

12 Do you have any understanding as to whether
13 Mr. Foster was aware of the subpoena prior to his
14 death?

15 MR. KRAVITZ: Let me interrupt. As long as
16 we're just referring to the notes, I haven't
17 objected. But my understanding and I think the
18 record is clear that there wasn't a subpoena. It was
19 a search warrant, so if you're asking a question not
20 related to the notes.

21 THE WITNESS: Right, search warrant.

22 MR. GIUFFRA: Search warrant.

1 THE WITNESS: No. No, I have no
2 knowledge. I do not believe that Vince knew, but I
3 obviously don't know what Vince knew, but I have
4 never seen anything to suggest that he had knowledge
5 or could have had knowledge.

6 BY MR. GIUFFRA:

7 Q This would just be speculation?

8 A By the press.

9 Q Have you ever seen, other than this
10 morning, billing records of the Rose Law Firm?

11 A No.

12 Q Do you recall any discussion at this
13 meeting --

14 A Related to this?

15 Q Relating to Madison Guaranty.

16 A No. The Rose Law Firm has represented my
17 law firm in the past so I'd seen billing records
18 related to that.

19 Q Do you recall any discussion during this
20 meeting of billing records of the Rose Law Firm?

21 A No.

22 Q It's your testimony you have no knowledge

1 as to the circumstances surrounding the discovery of
2 the billing records at the White House last week?

3 A I do not.

4 Q And you've never discussed the existence of
5 these billing records -- strike that.

6 Have you ever discussed the existence of
7 these billing records with Ms. Carolyn Huber?

8 A No.

9 Q Have you ever discussed the discovery of
10 these billing records with Ms. Huber?

11 A No.

12 Q Ever discussed the discovery of these
13 billing records with the President?

14 A No.

15 Q Have you ever discussed the discovery of
16 these billing records with Mrs. Clinton?

17 A No.

18 Q Has anyone advised you as to anything to do
19 with the circumstances surrounding the discovery of
20 these billing records other than what you've seen in
21 the press?

22 A No.

1 Q Did you do most of the talking at the
2 meeting with regard to the factual rendition?

3 A If you look at the notes, I think I did the
4 talking maybe for the first half and that Jeff Lyons
5 may have done the talking for the second half.

6 Q So up until about which portion of the
7 meeting would you recall --

8 A Again, other people may have had something
9 to say. Kennedy, for example, had knowledge relating
10 to Whitewater dating from his review of some of the
11 records for Mrs. Clinton, but I noticed it start of
12 starts over, frankly, on page 112535, "1978, bought
13 from River 101 development" and on down. Seems to be
14 a walking through of the Lyons report, and I would
15 assume that that was Jim talking. There was also an
16 attachment which I believe Jim drew and used to help
17 walk people through the transactions.

18 Q Do you recall him using that attachment
19 during the meeting?

20 A If you asked me that cold, I would have
21 said no. When I saw the attachment, I remember that
22 he drew something out of it, yes.

1 Q Was there any discussion during this
2 meeting of the fact that Randy Coleman had contacted
3 Bill Kennedy during the summer of 1993 about David
4 Hale?

5 A Again, I don't recall it. It could have
6 been when we were talking about the SBIC part of
7 this. Kennedy could have mentioned that Coleman had
8 called him, but I don't recall.

9 Q Was there any discussion during this
10 meeting of the fact that Mr. Hubbell had met with
11 Richard Mayes, who would have been an attorney to
12 Mr. Hale on November 4, 1993?

13 A No.

14 MR. KRAVITZ: Can you repeat that
15 question.

16 THE WITNESS: I don't know if that's fact.
17 Since I've never heard of it before, whether or not
18 there was any discussion of Web Hubbell meeting with
19 Richard Mayes as an attorney. I've seen Richard
20 Mayes say in the paper in Little Rock that there was
21 no such meeting, so again, I don't know the factual
22 predicate for that question, but there was no

1 discussion of it because I had never heard of it.

2 BY MR. GIUFFRA:

3 Q Turn your attention to page 12535, midway
4 through. There's a reference to 1986, "Flowerwood --
5 collateral as a maker." Do you know what this refers
6 to?

7 A Yes.

8 Q What does it refer to?

9 A Jeff Gerth told me in the conversation that
10 I had with him that at some point after the original
11 Susan McDougal loan that McDougal had come back and
12 tried to give him a new statement of purpose that
13 included real estate development and Flowerwood
14 specifically. I think if you look at my notes of the
15 Gerth conversation, you'll see all that referenced.

16 Q Was there any discussion of the alleged
17 missing Hale document relating to this Flowerwood
18 issue?

19 A I don't know. I know that my notes with
20 Jeff Gerth said that he never substituted the
21 statement of purpose, if that's what you're referring
22 to. And therefore, it was not among the documents

1 that the FBI picked up. So since I knew that, I
2 could have said it. But since it's not reflected
3 here, I don't remember seeing it. But it was
4 certainly something that I knew from my Jeff Gerth
5 conversation before this meeting. So I don't know
6 how to answer it. I could have said anything I
7 knew. But all I remember is what's reflected here.

8 Q Let me take you back to page 12530. At the
9 very bottom of the page, it says "now luncheon
10 restaurant."

11 A Yes.

12 Q What does that refer to?

13 A I have no idea. At one time -- well, I
14 don't recall.

15 Q What were you about to say, at one time --
16 I know your lawyer probably just kicked you.

17 A No. If you remember my notes, there's a
18 reference to -- The New York Times was preparing an
19 affidavit for Mr. Hale and that if anything changed
20 from what Mr. Hale had previously told Jeff Gerth to
21 that affidavit, if he changed any wording, that they
22 were going to walk away from this story. You know,

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1 part of that story was that it was the 145th Street
2 trailer park. He went in there and Clinton was in
3 jogging shorts, and he jogged out of there. You have
4 to know Little Rock, but the 145th trailer park is a
5 good 10, 12, maybe 15 miles out of Little rock. It
6 is probably very unlikely that that would make any
7 sense. Gerth or somebody may have told me that he
8 now was changing the location of that from 145th
9 Street to a lunch. Again --

10 Q That Hale was changing the story?

11 A That Hale was changing the story, that he
12 no longer was claiming -- but again, that's what it
13 could refer to. Because of the reference Jeff Gerth
14 had to the Hale affidavit, the New York Times backed
15 away. It sounds to me like when you look at all that
16 together, although I don't have an independent memory
17 of this, if somebody told me that The New York Times
18 had ever written David Hale's story, they wrote about
19 it because other people were writing about it, but
20 they never wrote about it from a first person, we
21 spent three days doing an interview story and I think
22 maybe part of it was because somebody told me David

1 Hale did change his story and in fact, The New York
2 Times at that point backed away, as Gerth told me
3 they would if, in fact, he changed his story.

4 (Recess.)

5 BY MR. GIUFFRA:

6 Q I have a question. On the first page of
7 the typed notes, there is a reference that says "RLF
8 answered questions to reconstruction." Do you know
9 what that refers to?

10 A Well, RLF, I assume, refers to the Rose Law
11 Firm. At the time that this came up in the campaign,
12 I think they did answer questions about what
13 Hillary's role was with respect to the securities
14 commissioner matter. And this was -- she had a
15 telephone conversation, and her name appeared on two
16 or three letters which she reviewed.

17 Q Did you ever have any discussions with
18 Mrs. Clinton with regard to her preparation of
19 interrogatories to the Resolution Trust Corporation?

20 A No.

21 Q Did you ever have any discussions with the
22 President about his preparation of interrogatories to

1 the Resolution Trust Corporation?

2 A Repeat that again.

3 Q Did you ever have any discussions with the
4 President about his preparation of interrogatories
5 with the Resolution Trust Corporation?

6 (Witness conferred with counsel.)

7 A No.

8 Q Did you ever discuss with Mr. Kendall
9 anything having to do with the preparation of sworn
10 interrogatories by the President or First Lady?

11 A No.

12 Q Do you know what the reference to
13 "reconstruction" -- "RLF did reconstruction" on the
14 first page of these typed notes refers to?

15 A No. I don't know why that word was used.
16 I don't remember that word being used.

17 Q Do you know if there was a reconstruction
18 of Rose Law Firm billing records?

19 MR. SNYDER: Billing records?

20 MR. GIUFFRA: Yes, or any kind of records.

21 THE WITNESS: At any point?

22 BY MR. GIUFFRA:

1 Q Yes.

2 A Yes.

3 Q When was that?

4 A In the responses to the interrogatories to
5 the RTC, I saw a reconstruction or a recap -- I'm not
6 sure what it was called -- of the Rose Law Firm
7 billing records with respect to Madison.

8 Q These are in Mrs. Clinton's
9 interrogatories?

10 A Yes.

11 Q And again, you had no role in the drafting
12 of those interrogatories?

13 A No.

14 Q This is only based on your review of the
15 interrogatories after they were signed?

16 A Right.

17 Q You didn't review any drafts of the
18 interrogatories from either the President or the
19 First Lady?

20 A No.

21 Q Let's turn on the typed -- strike that.
22 Let's turn to page 12530. There's a

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1 reference to Les Patton midway through the discussion
2 of RTC criminal referrals and David Hale. Do you
3 know why that was --

4 A No.

5 Q The next page, 12531 --

6 A I know who Les Patton is. I don't know why
7 it appears at that point in here.

8 Q There's a reference at the top of page
9 12531 it says "Steve Smith filed for BR." Do you
10 know the context in which Mr. Smith's name came up
11 during the course of the November 5 meeting?

12 A No, other than obviously the check or the
13 Capital Services Management loan to Steve Smith came
14 up in the Jeff Gerth conversation, and I don't know
15 whether this follows on the Jeff Gerth conversation.
16 And I knew at some point Steve Smith had filed for
17 bankruptcy, so I don't know if I was -- I didn't know
18 whether that loan was discharged from bankruptcy. I
19 don't quite know -- that could have been what the
20 reference was.

21 Q Was that based on your information that you
22 had independently, or was that information that

1 Mr. Gerth had provided to you?

2 A That Steve Smith filed for bankruptcy? No,
3 it's independent information.

4 Q Who is Steve Smith again?

5 A Steve Smith is a professor at
6 Fayetteville. He was in the Clinton first
7 gubernatorial administration. He later bought, along
8 with Jim McDougal, the Bank of Kingston.

9 Q Was there any discussion in the meeting of
10 the fact that Mr. Smith was mentioned in RTC criminal
11 referrals?

12 A RTC criminal referrals? No, I don't think
13 I knew that.

14 Q Any kind of criminal referrals or that he
15 was under investigation?

16 A Well, there was -- the only reference I
17 knew to Steve Smith at this time was the Jeff Gerth
18 reference to him in the -- in his interview. So if
19 that's an investigation, you know, once -- then I
20 would know that Steve Smith was under investigation.
21 But beyond that, no. Just that one reference.

22 Q Did there come a time when you learned that

1 Mr. Smith was named in an RTC criminal referral?

2 A RTC criminal referral -- I don't think so.

3 Q Any other kind of criminal --

4 A Well, he pled to a misdemeanor.

5 Q That would be the first time you knew that
6 he was under investigation?

7 A When he pled?

8 Q Yes.

9 A Yes. I think I knew he was under
10 investigation shortly before he pled, but it was in
11 connection with his -- I mean, there were stories in
12 the Arkansas paper about -- that Steve Smith was
13 going to plead. There was speculation as to when,
14 three or four or five weeks before he actually pled.

15 Q Do you know what the reference "bought Bank
16 of Kingston with McDougal"?

17 A Steve Smith and McDougal bought the Bank of
18 Kingston, so I assume it was Steve Smith bought the
19 Bank of Kingston with McDougal.

20 Q Let's go down two typed lines where it says
21 "only lines of communication through Sam Heuer." Do
22 you know what that refers to?

1 A Well, right -- at some point, you couldn't
2 talk -- again, nobody was having any luck back in the
3 late '80s talking with McDougal. If you look at
4 Hillary's correspondence, you will note that she
5 tried, and I think we were walking through this, that
6 if at some point you couldn't talk to McDougal, the
7 only way you could communicate with McDougal was
8 through his attorney. Again, I don't know exactly
9 what the context was.

10 Right above it, it says "McDougal, powers
11 of attorney." I think Hillary tried to get power of
12 attorney, sent letters. "Not getting the information
13 needed," she was going to get involved with the
14 purpose of winding down the deals and then as part of
15 that, I may have followed on and said you know, it's
16 been very difficult throughout all this to talk --
17 for anybody to talk to McDougal and the only way
18 anybody communicates is through Sam.

19 Q Now, the discussion below that, where it
20 says "arrange for 50 percent interest" and then "Jim
21 Blair." Do you know what that refers to?

22 A No. Again, Jim Blair was involved in

1 arranging for McDougal to buy the Clintons'
2 interest. He represented the Clintons with respect
3 to that. So again, that could be what that has a
4 reference to.

5 Q The fact that McDougal would buy the
6 Clintons' 50 percent interest in Whitewater
7 Development Corporation?

8 A Right.

9 Q And that was something you were trying to
10 do at the end of 1992?

11 A Not me, but the Clintons were, yes.

12 Q Let's go down to the bottom of the page
13 where it says "Blair could have knowledge, could be
14 source of money to allow McD to purchase stock."
15 What does that refer to?

16 A It could well be my speculation as to
17 whether or not -- Jim was broke or had no money,
18 lived in a trailer on Social Security --

19 MR. KRAVITZ: Jim McDougal.

20 THE WITNESS: McDougal. Not Jim Blair.
21 Jim Blair is not broke. I think I may have been --
22 Blair knew McDougal. Blair knew, was working with

1 Sam. I may have speculated that Blair could have
2 been the source of the money for McDougal to buy the
3 Clintons' stock.

4 BY MR. GIUFFRA:

5 Q You believe you were the one who probably
6 provided this reference?

7 A I think I think I'm the only one that could
8 have, yes.

9 Q Had you spoken to Mr. Blair at any point
10 about the fact that he provided the money to
11 Mr. McDougal --

12 A No.

13 Q -- to buy the stock?

14 A No. I think it was speculation on my part.

15 Q What was the basis for your speculation
16 that there was an involvement with Mr. Blair with
17 regard to providing Mr. McDougal to buy the stock?

18 A Well, there was clearly an understanding
19 that Blair was involved in the arranging to sell the
20 interest, and I also knew, in general, McDougals'
21 financial situation and so I think I would have
22 speculated that McDougal didn't have \$1000 to be

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1 paying for stock that had no value, you know. And
2 that therefore, I think I was speculating that Blair
3 could well have -- somebody would probably have
4 provided him the money and Blair could well have
5 provided it to him.

6 Q Have you ever discussed the transfer of the
7 Clintons' interest in Whitewater with Mr. Blair?

8 A Yes, in a way.

9 Q What do you recall about your discussions
10 with Mr. Blair with regard to the Clintons' sale of
11 their interest in Whitewater to Mr. McDougal?

12 A Well, if you remember, after my meeting
13 with Gerth, I called Jim Blair. There are notes, and
14 one of the questions was what about these corporate
15 records? McDougal claims he never got them.
16 McDougal said it was agreed to that he would get
17 them, so I had a conversation with Jim, at least
18 about that and about the filing of a tax return and
19 the timing of that. So to the extent that that
20 involved the sale of the interest to the Clintons --
21 to the McDougals, I discussed it with Jim, but that's
22 the only reference I had.

1 Q He had not told you that he had given
2 McDougal \$1000?

3 A No. The first time I knew for a fact that
4 he gave McDougal the thousand dollars was when I read
5 it in Newsweek last week.

6 Q Immediately above the reference to
7 Mr. Blair, there's a reference to "3/4 Times
8 Heuer/Blair contact February 3, '92 involved with VF
9 trying to arrange sale."

10 A I read that as "three or four times" as
11 opposed --

12 MR. KRAVITZ: Did you also read the "2/3"
13 as "two or three" as opposed to February 3rd?

14 THE WITNESS: Yes.

15 BY MR. GIUFFRA:

16 Q What do you recall about that discussion?

17 A I don't know. I don't recall anything
18 about that discussion.

19 Q Let me call your attention to page 12533.
20 In the middle of the page it says "after did
21 reconstruction 2/3, 1992." You don't believe that
22 refers to February 3, 1992, or do you think it refers

1 to the number of times somebody contacted Heuer?

2 A Again, let me look at this --

3 MR. SNYDER: Your question now is with
4 regard to the reference on page 33?

5 MR. GIUFFRA: My apologies. I'm trying to
6 rush this.

7 THE WITNESS: The date February 3 -- that
8 page is missing, by the way, I think from here. In
9 the handwritten copy, mine goes from -- never mind.
10 Hold on. Maybe it's just an extra page.

11 BY MR. GIUFFRA:

12 Q That may well be an extra page.

13 A I'm trying to see -- the date February 3,
14 1992 has no meaning to me. Every time I've read
15 that, I've read that as "two to three times" as
16 opposed to a date.

17 Q That Heuer --

18 A Both the Heuer reference and the reference
19 you just -- I focused on the reference after the
20 reconstruction.

21 Q There have been a number of two to three
22 contacts with Heuer and Blair with regard to

1 Whitewater.

2 A I think that's part of what that is
3 reference to.

4 Q Now, in the White House's version of these
5 notes, the reader is referred to a memo to files that
6 was written by Mr. Foster December 30, 1992 regarding
7 his attendance at the December 22, 1992 closing with
8 Blair and -- excuse me, with McDougal and Heuer.
9 You're familiar with that memo?

10 A Yes.

11 Q When was the first time you saw that memo?

12 A '95. I don't remember when.

13 Q Do you recall any discussion at this
14 meeting about obtaining this memo?

15 A No.

16 Q Do you recall any discussion of the meeting
17 at the memo?

18 A Of the memo at the meeting?

19 Q Of the memo at the meeting. Again, I
20 apologize for rushing.

21 A No, I don't know if anybody knew there was
22 a memo, anybody at the meeting. I didn't.

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1 Q You don't recall any discussion of any need
2 to try and retrieve a copy of this memo from the Rose
3 Law Firm?

4 A No.

5 Q The next page, it says across the top
6 "nominal and respectable" --

7 MR. SNYDER: Which page number?

8 BY MR. GIUFFRA:

9 Q 12532. It says "nominal and respectable
10 plus out of the air." "Out of thin air" is in the
11 handwritten version.

12 A Okay.

13 Q What do you recall about that discussion?

14 A I think we -- someone said where did the
15 thousand dollars come from, and I think we had sort
16 of a general discussion, I guess, that it seemed not
17 too little, not too much, but basically it was just
18 sort of picked out of the air.

19 Q You mentioned at the very beginning that
20 the Rose Law Firm's representations of Madison was
21 one of the issues of major concern.

22 A No, I didn't.

1 Q It was an issue that was discussed at the
2 meeting?

3 A No, I don't believe that's true. Hillary's
4 involvement with the securities commission, not
5 Madison, in any sort of general sense, but solely
6 with the issue that was raised in the '92 campaign
7 about the securities commission, that was the only
8 part of Madison's representation that I knew was of
9 any concern to anybody.

10 Q What were some of the other issues of
11 general concern that were discussed at the meeting?

12 A They're reflected in the notes.
13 Basically -- you say concern. We were simply walking
14 through all the stuff that was sort of out there. I
15 mean to say that any of this was a concern, I don't
16 think any of it was a concern. This was an attempt
17 for someone who we assumed had not been following it
18 to the same extent that we had been following it or
19 at least I had been following it to sort of know what
20 was going on.

21 I didn't know whether David Kendall knew
22 that in the 1992 campaign, Jerry Brown or the press

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1 had raised this issue about Beverly Bassett. I
2 didn't know whether he knew anything about any of
3 Jeff Gerth's concern or the David Hale deal. I was
4 just simply trying to sort of unload for him
5 everything that had been out there so he would be
6 able to respond to it or know about it enough so if
7 someone else raised it, he would have at least some
8 sort of context for it.

9 So again, I wouldn't indicate -- I wouldn't
10 use the term that anything we discussed here was a
11 concern. It was simply a dump.

12 Q Let me call your attention to -- there's a
13 series of names listed after the discussion "nominal,
14 respectable, out of the air." Jim Hamilton, Web
15 Hubbell, Jim Blair, Loretta Lynch, Susan Thomases,
16 Charles James.

17 A Right. I think all of these are people
18 that were involved at some point to some degree in
19 this issue, when it became an issue in early '92, in
20 March of '92.

21 Q These are people who worked on the Clinton
22 campaign?

1 A For the most part, yes.

2 Q Now, there's a reference "Jim Lyons has
3 work papers." Do you know what that refers to?

4 A I believe he had the work papers from the
5 Lyons report.

6 Q And then immediately below that it says
7 "Betsy Wright/Hubbell docs." What does that refer
8 to?

9 A There were certain documents that Betsy had
10 in her role during the campaign of responding to
11 Arkansas-related matters that after the campaign, she
12 took home with her. At some point Web retrieved
13 those or got them from Betsy. They apparently,
14 according to Web's testimony were stored in his
15 basement when he moved up here for eight or nine
16 months, and then ultimately turned over to David
17 Kendall.

18 Q Are you aware of certain files relating to
19 Madison that were transferred to Mr. Kendall by
20 Mr. Hubbell on November 17, 1993?

21 A I'm clearly familiar with the letter that
22 David Kendall, I guess, or Bob Barnett -- I guess

1 David Kendall wrote to the Rose Law Firm saying that
2 these are the documents -- I'm returning your
3 documents and that Kendall either then testified in
4 the Committee or told the press that those documents
5 had come from Web. So if we're talking about the
6 same documents, I'm aware of that matter.

7 Q Was there any discussion of the return of
8 these documents at this meeting?

9 A I don't recall. I'm trying to remember
10 when the note -- the Web Hubbell note that says Jim
11 Lyons was meeting with me and suggests you bring the
12 document, whether that was before or after this.
13 Again, I don't remember any discussion at this
14 meeting about it.

15 Q Do you recall any discussion at any time of
16 the fact that these Madison files that were
17 subsequently transferred by Mr. Hubbell, Mr. Kendall,
18 then back to the Rose Law Firm had at one point been
19 in Mr. Foster's files?

20 A No, I don't believe they were.

21 Q Are you aware of the fact that in the
22 November --

1 MR. KRAVITZ: Wait. I want to make sure
2 that Mr. Lindsey understands the question. When you
3 said you don't believe they were, did you think that
4 the question refers to Mr. Foster's office?

5 THE WITNESS: Yes, I'm sorry.

6 MR. KRAVITZ: I think the question was "in
7 his files," which was actually the language that
8 Mr. Kendall uses in his letter.

9 BY MR. GIUFFRA:

10 Q His November 22, 1993 transmittal letter to
11 Rose, Mr. Kendall indicates that these Madison files
12 were at one point -- or were from Mr. Foster's
13 files. Do you know anything about that?

14 A No.

15 Q So as far as you know, for example --
16 strike that.

17 As far as you know, Mr. Foster did not have
18 any Madison files in his office?

19 A In his office, no. I'm not aware that he
20 had any Madison files in his office.

21 Q Do you know whether Mr. Foster had any
22 documents relating to Madison, Whitewater and related

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1 matters at his home in either Washington or Arkansas?

2 A No.

3 Q Do you know whether Mr. Hubbell maintained
4 a storage facility in Arkansas where he maintained
5 certain files relating to Madison or Whitewater?

6 A No.

7 Q Do you have any information about why
8 Mr. Kendall would have referred to these Madison
9 files as coming from the files of Vincent Foster?

10 A No.

11 Q Now, there's a reference -- "corporate
12 records/not to McDougal." "BF BW," I believe, is
13 what the handwritten says.

14 MR. SNYDER: The typed version page 532
15 says "BC."

16 MR. GIUFFRA: I believe the handwritten
17 says "BEF." Page 12532, about a third of the way
18 down.

19 MR. KRAVITZ: That's the typewritten --

20 MR. SNYDER: You mean handwritten.

21 MR. GIUFFRA: Let's go off the record for a
22 second.

1 (Discussion off the record.)

2 THE WITNESS: I don't know whether it's
3 before or --

4 BY MR. GIUFFRA:

5 Q Do you know what that reference refers to,
6 "corporate records/not to McDougal," either "BEC" or
7 "BW"?

8 A No, I don't know why -- BW stands for Betsy
9 Wright -- why she would be referenced there. Well,
10 whatever -- the campaign took some records to respond
11 to all these questions.

12 Q From where did they take the records?

13 A From the Rose Law Firm.

14 Q Who from the campaign took the records from
15 the Rose Law Firm?

16 A I don't know. You know, I think Loretta
17 Lynch was involved with it. I think other people
18 were involved with it, but some of the Rose Law Firm
19 records related to Whitewater, were transferred to
20 the campaign at some point during the campaign to
21 respond. And again, if they ended up in Betsy
22 Wright's file, they would have been there -- McDougal

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1 was clearly making an issue, had made an issue with
2 Jeff Gerth about how we told him we would return
3 corporate records and we hadn't.

4 But again, the only way BW fits there is
5 that Betsy Wright, to the extent that there were
6 records in the campaign that she took home, again,
7 those would have been in her files and not returned
8 to McDougal.

9 Q It's your understanding that Ms. Lynch was
10 involved in removing files from the Rose Law Firm
11 during the campaign?

12 A I don't know if she was involved in moving
13 them. She was certainly involved in organizing them
14 and trying to respond to some of the press questions.

15 Q Would this have included Whitewater
16 documents as well as Madison?

17 A Again, Madison was not an issue. Only
18 Whitewater was an issue. This was all Jeff
19 Gerth-generated in February and March of 1992. The
20 only issue was Whitewater-related, not
21 Madison-related.

22 Q Have you ever discussed with Mrs. Clinton

1 her representation of Madison Guaranty?

2 A It is possible around the time of the Jerry
3 Brown debate in Chicago and Mrs. Clinton's comments
4 the next day that I could have spoken to her about
5 it. But outside of that narrow window of time, no.

6 Q What do you recall about any
7 conversation --

8 A I don't recall a conversation, but she was
9 there, I was there. We could have discussed it.

10 Q The reference immediately below "corporate
11 records" -- "HRC/RLF/Loretta organized Charles James,
12 account for Whitewater," do you know what that refers
13 to?

14 A Again, I think what that refers to is that
15 the records that the Rose Law Firm had on Whitewater,
16 we took charge of or we moved them over to the
17 campaign and Loretta tried to organize it. Charles
18 James was the accountant for Whitewater. I don't
19 know whether some of the records were his records or
20 not.

21 Q Are you aware of any documents relating to
22 Whitewater, Madison or related matters ever being

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1 transferred to the Clintons themselves?

2 A Ever?

3 Q Yes.

4 A No.

5 Q Are you aware of any documents relating to
6 Madison or Whitewater ever being transferred to
7 Ms. Carolyn Huber?

8 A No. The reason I hesitate on the first one
9 is there is a -- McDougal claims at some point he
10 gave the Clintons in late '80s some
11 Whitewater-related records. And clearly, I think the
12 Clintons had some records. You know, I've read
13 correspondence where at various times Hillary has
14 indicated she didn't have these records or that
15 record, but clearly they had some records, but I
16 don't believe -- I don't know how they came in
17 possession of those records.

18 Q As of the time of the retention of
19 Mr. Kendall, do you have an understanding as to
20 whether the Clintons had Whitewater or Madison
21 records in their possession?

22 A No.

1 Q Toward the bottom of the page, it says "NWW
2 Sam Heuer -- mistake." Do you know what that refers
3 to?

4 A Yes.

5 Q What does this refer to?

6 A This has to do with the IP property, the
7 International Paper property. That property was
8 transferred -- was put into Whitewater. Three months
9 later it was moved into Great Southern Development
10 Corporation. Heuer told someone -- again, I'm not
11 quite sure -- that it was simply a mistake, that
12 McDougal had put it into the wrong corporation. Once
13 he realized it was in the wrong corporation, it was
14 moved out of that corporation into the right
15 corporation.

16 McDougal supposedly told someone else that
17 he put it in there because he wanted the loss
18 carry-forward that would be generated from it, and
19 that was around the time he was encouraging the
20 Clintons to deed their interest or sign over their
21 interest in Whitewater, and the reason he wanted it
22 because he wanted the loss carry-forward to use

1 against what he thought was going to be a profit he
2 was going to make on the International Paper
3 company.

4 I think all of that was referred to in one
5 of my notes to the files that Heuer says one thing.
6 McDougal says something else.

7 Q The next page, let me call your attention
8 to the quote "plane sold to Seth Ward -- WH
9 father-in-law and then to Central Flying Service" and
10 it says "trace through FAA in Oklahoma City. Who's
11 on the airplane." Do you know what that refers to?

12 A Yes. Part of the -- when they sold the
13 remaining lots, 24 of them, I guess, to Chris Wade in
14 1985, what he paid for it was he assumed about
15 \$35,000 in mortgage obligation, and he gave them an
16 airplane. That airplane at some point Seth Ward
17 owned and ultimately Central Flying Service owned.
18 And I think Kendall or someone said you can trace
19 through the FAA the ownership of that airplane, and
20 that's what that was a reference to.

21 Q Let me take you down a little bit further.

22 A If you go to the long version of the Lyons

1 report, I think this took us -- the \$25,000 that was
2 generated by this never was credited to Whitewater
3 apparently. And that's, I think, referred to in the
4 Lyons report. Go ahead. I'm sorry.

5 Q Have you ever discussed Seth Ward with
6 Mrs. Clinton?

7 A No.

8 Q Have you ever discussed something called
9 Castle Grande with Mrs. Clinton?

10 A No.

11 Q Have you discussed a transaction called IDC
12 with Mrs. Clinton?

13 A No.

14 Q Now, it says a little bit further down it
15 goes "RLF/Madison Guaranty retainer at 2000 per
16 month." Let's actually turn to the handwriting part
17 of this, 12522, start "RLF Madison Guaranty 2000 a
18 month" and crossed out "34,000 WWDC to Hillary" and
19 it says "ANN plus check drawn on WWDC -- payable to
20 HRC." Do you know what this refers to?

21 A No, unless somebody like the Washington
22 Times, for lack of a better source, was somehow

1 suggesting that this money had gone from Whitewater
2 to Hillary or something. Independently, I don't
3 know, but there may have been some speculation out
4 there that Whitewater had been paying Hillary or
5 something, and this was a reference to that.

6 Q Below that it says "ANN plus check drawn on
7 WWDC payable to HRC." Do you know what that refers
8 to?

9 A I'm sorry, where?

10 Q It says "ANN plus check drawn on WWDC
11 payable to HRC."

12 A Again, that's what I was actually
13 responding to before.

14 Q You don't know what ANN refers to?

15 A No.

16 Q Do you know L.D. Brown?

17 A Yes.

18 Q You know who he is?

19 A Yes.

20 Q Does he have a mother-in-law whose first
21 name begins with Ann something who works for the
22 White House?

1 A Ann McCoy, yes.

2 Q Could that be a reference to Ann McCoy?

3 A No. Theoretically, it could be, but that
4 wouldn't make any sense, and that appears several
5 other times in here, too, I believe, I thought, the
6 word "ANN." So --

7 Q So have you ever spoken to L.D. Brown about
8 anything to do with Governor Clinton and David Hale?

9 A No. Spoken to him, no.

10 Q Have you spoken to Ms. McCoy having to do
11 with L.D. Brown and David Hale and Governor Clinton?

12 A No.

13 Q Any meetings the three of them may have
14 attended?

15 A No.

16 Q Now, below that, it says -- it looks like
17 Bernie --

18 A That may be American Spectator. That could
19 be AM. I'm guessing.

20 Q Then it says "Bernie" --

21 A You think that's Bernie or Bruce?

22 Q It could well be Bruce. In the typed

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1 version, it says Bernie.

2 A I understand that. I was looking at the
3 other version.

4 Q "Believes it" --

5 MR. KRAVITZ: Possible?

6 MR. GIUFFRA: Probable.

7 THE WITNESS: Probable.

8 BY MR. GIUFFRA:

9 Q "Probable" is one way of reading it.

10 "Represents confirmed payment of 2000 number of
11 month for 17 months."

12 MR. KRAVITZ: The typed version is clearly
13 screwed up here if you compare it to the handwritten
14 version on page 12522. The typed version has clearly
15 combined two different entries.

16 BY MR. GIUFFRA:

17 Q Do you know what this refers to?

18 A Well, if there was a story that Hillary had
19 received \$34,000, either Bernie or I could have said
20 that could be just a confusion that somebody may be
21 taking \$2000 a month times 17 months and coming up
22 with \$34,000. And that that -- so if there is a

1 published story out there, I would check the American
2 Spectator that there was somehow \$34,000 that went to
3 Hillary that we were simply saying to whatever extent
4 there's any truth to that, it's probably somebody
5 taking the \$2000 and multiplying it by 17 and coming
6 up with 34.

7 Q In the handwritten notes, there's a
8 reference to Web Hubbell midway through page 12252.
9 Does that arrow indicate that this information came
10 from Mr. Hubbell?

11 A I don't think it came to him at that
12 meeting. I think Web at some point, when he was
13 speaking for the Rose Law Firm back in the '92
14 campaign, had indicated that the Rose Law Firm did
15 receive what you all call a retainer, which I call an
16 advance against billings for a 15-month period. So I
17 don't know what -- I don't believe that was Web
18 providing that information now. It simply could have
19 been me referring to -- that Web during the campaign
20 confirmed to the press that, in fact, the Rose Law
21 Firm received \$2000 a month.

22 Q Now, immediately below that, there's a

1 discussion, "end of '86 asked for records. McDougal
2 say that all corporate records to HRC." Do you know
3 what that refers to?

4 A That's what I was talking about earlier
5 when you asked me whether I knew about any corporate
6 records going to the Clintons, that I did know that
7 McDougal claims at some point in the late '80s he
8 gave all the corporate records to Hillary.

9 Q Now, immediately below that there's a
10 discussion. It says "RLF campaign Jim Lyons and
11 Loretta Lynch." Those are the people who handled
12 this matter during the campaign?

13 A Right.

14 Q Then it said "Betsy Wright had those
15 records, took them home, Betsy Wright." What does
16 that refer to?

17 MR. KRAVITZ: That's just a refrain.

18 THE WITNESS: Again, whatever records came
19 to the campaign during this period in '92 would have
20 been included in the records that Betsy had within
21 her sort of group that she took home with her after
22 the campaign. Web Hubbell retrieved -- again --

1 BY MR. GIUFFRA:

2 Q Did Web get all the documents from Betsy?

3 A I thought so. I mean --

4 Q Did Betsy keep any copies?

5 A I have no idea.

6 Q Do you know approximately how many pages of
7 documents there were, or boxes?

8 A No. I just understood that after the
9 campaign, Web went and got the documents from Betsy,
10 stored them at his house, "WH's" would have been at
11 Web Hubbell's.

12 Q When it says "WH retrieved records from
13 BW," that's Web Hubbell retrieved the records from
14 BW?

15 A That's what I read it to be.

16 Q Not White House retrieved records?

17 A No, Web Hubbell.

18 Q Then it says "been at WH. Sent files
19 related to WW." Do you know what that refers to?

20 A Not exactly.

21 Q What do you think it refers to?

22 A Again, at some point -- and I'm not clear

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1 on this, there was some question as to when Jim Lyons
2 got some of those records. That goes back to "bring
3 records to lunch," and I had a sense that maybe later
4 that he didn't bring them to lunch, but he may have
5 sent them. So to make a more complete
6 reconstruction, I think maybe Jim with the added
7 records that he had, he would be able to do a better
8 reconstruction of Whitewater than he had done for the
9 Lyons report. If I was speculating, I think that's
10 what it had to do with.

11 Q Immediately below that it says "Charles
12 James/subpoenaed with SBIC matter relate to \$ going
13 into WW."

14 A I don't have any idea what that refers to.

15 Q This was the portion of the meeting where
16 you were primarily making the presentation?

17 A Yes.

18 Q Did you have any understanding as of
19 November 5, 1993 of the subpoena that had been issued
20 to Charles James?

21 A I don't think so.

22 Q Were you aware of any subpoenas relating to

1 any SBIC matters as of November 5, 1993?

2 A No.

3 Q Are you aware of anything to do where
4 there's a connection -- strike that.

5 Are you aware of any connection between
6 Charles James and any SBIC matter?

7 A No.

8 Q And you don't know what the reference to
9 "relate to \$ going into Whitewater" refers to?

10 A No.

11 Q So you have no recollection as to why you
12 might have said this or what it refers to at the
13 meeting?

14 A I'm trying to find out if I actually said
15 it.

16 Q Take a look at page 12523 at the top of the
17 page.

18 Off the record.

19 A No. Again, I could speculate.

20 Q What do you think it refers to?

21 A Well, it's clear that at some point some of
22 the SBIC money that went to Susan McDougal went to

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1 purchase the International Paper property. I say
2 it's clear. I don't know that for a fact. I think
3 McDougal has said that part of the proceeds went to
4 do that. So that money went into Whitewater, though
5 I take exception with that every time the press says
6 that because it was there for less than two months
7 and then left.

8 But Charles James, who kept the books on
9 Whitewater, you know, might have some knowledge about
10 whether or not -- whether money actually came from
11 the Susan McDougal loan into Whitewater and did
12 that. At one point, I was told by -- and again, this
13 may have been something Gerth told me that I didn't
14 write Charles or James. Gerth told me in the
15 conversation that the money went into the McDougals'
16 account and came out in two cashier's checks, I
17 believe. And I don't remember much more about that
18 than what's reflected in the notes.

19 Again, I don't know whether any of this was
20 part of what Jeff Gerth told me or not.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1 Q A couple of lines down on the typed
2 version, it says "RTC/people trying to get BC and
3 JGT." Do you know what that refers to?

4 MR. KRAVITZ: What page are you on?

5 MR. GIUFFRA: Page 12534.

6 THE WITNESS: I don't know if I used those
7 terms. I assume at that point I was discussing an
8 article that appeared in the Arkansas Times relating
9 to a referral in late October, I guess, or October of
10 1992 in which the article suggests that the RTC was
11 pressuring the U.S. Attorney and Chuck Banks rejected
12 it and thought there was no basis for it, also
13 thought doing it that close to the election was
14 partisan and therefore, refused to act on the
15 indictment -- or the referral.

16 BY MR. GIUFFRA:

17 Q Do you know Chuck Banks?

18 A No. I mean, I probably have met him but I
19 don't know him.

20 Q Immediately below where it says "Chuck
21 Banks rejected," there's the reference to "vacuum
22 Rose Law files," and it says "WWDC docs/subpoena."

1 What is your testimony as to what that refers to?

2 A Looking at it, I don't know. We probably
3 did have a discussion at some point about whether or
4 not anybody who -- and this would have been other
5 people other than me because I had never seen the
6 files, but that anybody who tried to look at the
7 files would find that there wasn't much information
8 there. I think Jim Lyons clearly had found that and
9 tried to do the reconstruction. I think Kennedy and
10 others had certainly seen that in their attempts in
11 '90 and '91 to try to piece together what had
12 happened with respect to RTC.

13 Q Other than your counsel, have you discussed
14 with anyone what the phrase "vacuum Rose Law files"
15 means?

16 A I've not discussed it with anyone. I've
17 read Bill Kennedy's testimony. I do believe we had a
18 discussion about -- if you look, you just wouldn't
19 find much. I don't remember the word "vacuum" being
20 used in any sense, but we did have a discussion about
21 the quality and quantity of the documents were not
22 there.

1 Q Then one other question. Were you the
2 person who was leading the discussion at this point,
3 or was someone else leading the discussion at this
4 point?

5 A I don't believe I could have led this
6 discussion because I had never seen the files.

7 Q Immediately after "vacuum Rose Law files,"
8 it says "WWDC docs/subpoena." What does that refer
9 to?

10 A I have no idea. WWDC probably stands for
11 Whitewater Development Corporation, but I don't know
12 what that means.

13 Q Does the word "subpoena" refer to the SBIC
14 subpoena referred to earlier in the notes?

15 A I wouldn't think so.

16 Q Did this refer to the possibility of future
17 subpoenas for documents?

18 A Again, I have no idea. I don't remember a
19 discussion about subpoenas.

20 Q No discussion of the possibility of
21 subpoenas in the future for documents related to
22 Madison or Whitewater?

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1 A Again, we might have, but I don't remember
2 it.

3 Q And again, it's your testimony at this
4 meeting, there was no discussion of anyone being
5 asked to obtain information about the
6 Hale/SBA/Clinton/McDougal transaction?

7 A No.

8 Q Immediately below the phrase where it says
9 "WWDC docs/subpoena," it says "documents never know
10 go out," and I believe it says "quietly"?

11 A I'm not sure that says "quietly." If you
12 look where the cross is, it would be more like
13 "quality," but again --

14 Q Do you know what that means?

15 A No.

16 Q Do you know what the reference "never know
17 go out," do you know what that refers to?

18 A No.

19 MR. KRAVITZ: Can I ask one follow-up
20 question?

21 MR. GIUFFRA: Sure.

22 EXAMINATION

1 BY MR. KRAVITZ:

2 Q Mr. Lindsey, was there any discussion at
3 the November 5, 1993 meeting about anyone doing
4 anything to make the Rose Law Firm files or any other
5 files relating to Madison or Whitewater unavailable
6 to investigators who were at that time already
7 investigating any of those matters or who might do so
8 in the future?

9 A No, none.

10 MR. KRAVITZ: Thanks.

11 EXAMINATION

12 BY MR. GIUFFRA:

13 Q Immediately below that, there's a reference
14 to Susan McDougal and there's a quote: "McDougals'
15 account in Madison two different checks." Do you
16 know what that refers to?

17 A I think that's a reference back to Jeff
18 Gerth telling me that the money from the \$300,000
19 loan went into the McDougals' account and went out in
20 two cashier's checks.

21 Q Then immediately below that it says "IP
22 file, partial releases of the file."

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1 A In the International Paper file I had, that
2 I had gotten through the public records in Pulaski
3 County, there were partial releases to the mortgage.
4 It appeared as parts of the lots were sold off, that
5 they would release that portion from this mortgage
6 that they had on the property, that IP had.

7 Q Further down if the page at 12534, there's
8 a discussion that says "Betsy Wright/if Clinton took
9 out a loan." Do you know what that refers to?

10 A Probably.

11 Q What do you think it refers to?

12 A If I remember right, on the '84 report, the
13 Clintons are listed as contributing \$50,000 to the
14 campaign.

15 Q The '84 campaign report?

16 A Right.

17 Q This is for the 1984 gubernatorial
18 campaign?

19 A Right. This relates back to the checks for
20 the April 1985 fundraiser. The money was used to pay
21 off a \$50,000 loan. The loan is not reflected -- if
22 I remember looking back at the records -- the loan

1 was not reflected on the '84 reports, although it
2 listed a contribution from the Clintons in the amount
3 of \$50,000. And so I think I was simply referring to
4 the fact that while the \$50,000 was referred to on
5 the campaign disclosure reform, the fact that it was
6 a loan was not, though I think if you probably went
7 back to the contemporaneous newspaper articles, I
8 can't imagine anybody who looked at that, seeing that
9 who didn't ask, who wasn't told that it was a loan to
10 the campaign.

11 Just like in many other states, Arkansas
12 has a law that only the candidate can give more than
13 whatever the limit is and that can include loans, but
14 the loans have to be personal, obviously, because you
15 can't -- a loan is a contribution, so a bank cannot
16 loan it to the campaign. It would have to loan it to
17 the candidate who would then have to loan it to the
18 campaign.

19 Q Immediately below that it says "today/last
20 report never had a match between receipts and
21 expenditures." What does that refer to?

22 MR. KRAVITZ: I'm not sure it's clear from

1 these notes that those two lines go together like
2 that.

3 THE WITNESS: Again, I was probably giving
4 them a little primer on Arkansas law. Today, you
5 have to continue to file reports of both
6 contributions and expenditures up until the time that
7 those loans are paid off. That loan was changed in
8 1990. At that time, you filed a final report of
9 contributions and expenditures. You only get
10 expenditures by category 30 days after. And then you
11 had to file supplemental reports after that of only
12 contributions. So there would never be back then a
13 match between contributions and expenditures. You
14 would have a final expenditure report, and then you
15 could have supplemental contributinal reports so you
16 would never have a document where you could show that
17 you had this much expenditures, this much additional
18 contributions, and it zeroed out. But today, you
19 would do that, because today, the law is different.

20 BY MR. GIUFFRA:

21 Q Now, on the next page, 12535, it says on
22 "Betsy said 'didn't have to disclose the loans.'"

1 What does that refer to?

2 A Again, because in '84, the actual loan was
3 not referenced, I may have asked Betsy about that and
4 Betsy said as long as you reference the \$50,000 from
5 the Clintons, you didn't have to reference the loan.
6 Again, I could well have had that conversation with
7 Betsy.

8 Q Then below that it says "[\$300,000" --
9 again, I apologize for speeding -- "what
10 application," and it says "from?]" Do you know what
11 that refers to?

12 MR. SNYDER: Since there's a question mark,
13 can we find the place on the handwritten --

14 MR. GIUFFRA: 12524, midway down.

15 THE WITNESS: Do I know what that refers
16 to?

17 BY MR. GIUFFRA:

18 Q Yes.

19 A I don't quite know what the words refer
20 to. And again, this comes from -- I think from David
21 Hale, not necessarily from Jeff Gerth, but when David
22 Hale went public. The question was where did he get

1 the money to make -- where did he get the authority
2 to make the loans, the \$300,000 loan to Susan
3 McDougal and the other loans.

4 And I was describing the transactions, that
5 Hale had a piece of property worth maybe 300,000.
6 Madison loaned him basically -- he sold it. Madison
7 basically loaned \$800,000 on it. 300,000 went off to
8 pay off the debt that he had on it. The other
9 500,000 went into the SBIC. At some sort of match,
10 and I'm not quite sure what it is, that gave him
11 maybe 900,000 or a million dollars or maybe 500,000.
12 I don't know. It gave him additional lending
13 authority from which he made these series of loans in
14 the mid-'80s.

15 And so that is a walking through of how
16 supposedly Hale got the authority to loan the
17 \$300,000 to Susan McDougal plus some money to Jim Guy
18 Tucker, plus some money to Steve Smith and so forth.

19 Q Further down 12535 there's a slash and it
20 says "could be that JGT is target of RTC referral."
21 What does that refer to?

22 A Oh, I think that at least in the

1 conversation that we had on the 14th, Jeff Gerth told
2 Jack DeVore that while the Clintons were not a
3 target, that, in fact, Jim Guy may be a target and I
4 think there's a reference in my notes from that day
5 that says Tucker may be indicted.

6 MR. KRAVITZ: Could we make sure the record
7 is clear. What you're saying that you may have
8 discussed on November 5th the fact that on October
9 14th Jack DeVore reported having discussed with Jeff
10 Gerth the possibility that Tucker was a target?

11 THE WITNESS: Yeah. I don't know if I
12 would have related it back in that fashion, in fact,
13 Jeff Gerth told Jack DeVore that Jim Guy Tucker may
14 be a target. I may simply be saying at this point
15 taking that information that Jeff Gerth gave Jack
16 DeVore and now saying simply Jim Guy Tucker may be a
17 target of the RTC referrals without saying, you know,
18 Jack DeVore says that Jeff Gerth says in a meeting on
19 October the 14th. So the answer is that was a source
20 of my information, was Jeff Gerth to Jack DeVore to
21 that meeting, but I don't know if in this meeting I
22 would have given the history. I may have just said

1 it on straight out.

2 MR. KRAVITZ: Are you certain that the
3 source of this information about Mr. Tucker possibly
4 being a target was Mr. Gerth as opposed to any
5 official of the RTC? And in asking that question, I
6 understand that you've already testified that if it
7 was Mr. Gerth, it came to you through others who may
8 have been --

9 THE WITNESS: They were officials of the
10 Treasury Department. The answer is I believed that
11 that information came from Gerth.

12 BY MR. GIUFFRA:

13 Q So it's your testimony that no information
14 was communicated at this meeting that came solely
15 from government regulators?

16 A I didn't understand that any information
17 came from government regulators. So again, I'm
18 sitting there talking to a government regulator who
19 is telling me that he got a press call --

20 MR. KRAVITZ: You mean on October 14th.

21 THE WITNESS: On October 14th, yes, who
22 tells me he gets a press call and then relates to me

1 information. I understood the information he was
2 relating to me came from that press call. Now, I
3 don't know for a fact because I didn't talk to the
4 press guy, that every word he said to me was every
5 word that the press guy said to him, but clearly, I
6 was receiving it as having come from the press.
7 That's about all I can do.

8 BY MR. GIUFFRA:

9 Q Did Mr. Nussbaum ever mention during the
10 course of this meeting that he had discussions with
11 Jean Hanson?

12 A Again, I don't believe that Jean Hanson
13 ever came up in this meeting.

14 MR. SNYDER: Could we take a moment. Is
15 there something you want to find?

16 MR. GIUFFRA: I think he's looking for page
17 B-7.

18 MR. SNYDER: You're in the As.

19 THE WITNESS: What am I looking for?

20 MR. GIUFFRA: I could be wrong.

21 MR. SNYDER: Off the record.

22 (Discussion off the record.)

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1 THE WITNESS: In my notes of the October
2 14th meeting, there is a reference that talks about
3 "AP reporter named Kyle Chicago deposited in Bank of
4 Cherry Valley, other cashier's check, Jim
5 McDougal/Susan McDougal \$300,000, current government
6 may well be indicted."

7 MR. KRAVITZ: What's the page on that?

8 THE WITNESS: It's page X 001177.

9 MR. KRAVITZ: What you're saying is when
10 Mr. DeVore told you that on October 14th, it was your
11 understanding that that information came to
12 Mr. DeVore from Mr. Gerth?

13 THE WITNESS: That's correct, either
14 Mr. Gerth or maybe Mr. Kyle of the AP, but from a
15 reporter.

16 BY MR. GIUFFRA:

17 Q And was there discussion of the fact that
18 the information came from a reporter at the meeting
19 on November 5th?

20 A Excuse me. In my typewritten notes of that
21 meeting -- those were my handwritten notes. In my
22 typewritten notes, I write "Gerth stated to his

1 knowledge President Clinton was not a target of the
2 referrals, although Governor Jim Guy Tucker might
3 be." Clearly the notes I wrote on the 20th right
4 after this meeting reflected that that came from
5 Gerth.

6 MR. KRAVITZ: What's the Bates number on
7 that October 20 memo?

8 THE WITNESS: X 001179. So again, my
9 understanding in the 14th meeting was that
10 information was coming from Jeff Gerth.

11 I'm sorry, go ahead.

12 BY MR. GIUFFRA:

13 Q But at this meeting you had with
14 Mr. Kendall on November 5th, was there discussion of
15 the fact that this information was all coming from
16 reporters and not from regulators?

17 A Again, I was just -- I was dumping
18 information. This wasn't a process meeting. I was
19 just trying to tell them what was out there, so I
20 don't think there was -- I think I -- I didn't say
21 The New York Times is working on this, The Washington
22 Post is working on this, The Wall Street Journal is

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1 working on this. This information came from AP. I
2 was simply giving him all the information that was
3 out there from whatever source, and so I do not
4 believe that we had a discussion which said how this
5 information came about.

6 Q Further down the page, it says -- this is
7 midway through 12535 -- it says "repay it -- promise
8 to repay it. HRC wait to after the election
9 \$4761.33."

10 A The Lyons report identified two checks that
11 the Clintons took interest deductions on that, in
12 fact, were Whitewater interest deductions, and in the
13 campaign, the Clintons had agreed that they would
14 repay that money, but that that money hadn't been
15 repaid and I think this \$4761.33 had to come from
16 someone other than me. Sounds like the amount they
17 owed plus interest, perhaps. Since I had never done
18 that calculation, I could not come up with that
19 number.

20 Q Let me direct your attention to the
21 handwritten notes just for a quick second. At 12526
22 going over to 27, there's a discussion I believe it

1 reads "5" --

2 A Excuse me just a second.

3 MR. SNYDER: Where in the typed version?

4 BY MR. GIUFFRA:

5 Q Let's just go to 12537. It says "5/85" and
6 talks about the second note at Madison Bank and
7 there's a discussion that follows through. What does
8 this discussion refer to?

9 A I'm sorry, I'm not where you are.

10 Q Let me get you to 12537.

11 A I go from 36 to 38. I do not have -- I
12 don't have 34. I don't have 37, unless it's
13 somewhere over here. I can look at his. Where are
14 we?

15 Q This discussion at the top "5/85 second
16 note at Madison Bank," and it goes down and talks
17 about 5/11/91.

18 MR. KRAVITZ: 8/11/91.

19 BY MR. GIUFFRA:

20 Q 8/11/91, excuse me. What does that
21 discussion refer to?

22 A I don't remember if you remember, but we

1 originally said that the Clintons spent \$68,000 in
2 Whitewater. We included in that a \$20,000 check,
3 \$20,000-plus check to the Madison Bank that the
4 Clintons at the time thought was meant to be used for
5 Whitewater, but it never happened. We couldn't find
6 it in Whitewater. In the papers, we couldn't find
7 any credit for it. We couldn't find any reduction in
8 the amount, but we still claimed it because the
9 Clintons at the time had a clear memory that that was
10 what the purpose was.

11 Later, the President indicated that while
12 he was reviewing his mother's book, she made
13 reference to the lake home and the buying of the lake
14 home and the financing of the lake home, and he
15 remembered that, in fact, that check could have been
16 used to make a payment on the lake home.

17 We then held a press conference, and we
18 reduced from 68,000 down to 40-something thousand
19 dollars the amount of money the Clintons had
20 contributed to Whitewater and indicated that we had
21 misapplied this \$20,000 check, which was really meant
22 to be -- which was really used for another purpose.

1 But all of that is a way of saying we
2 thought it was going to be applied to Hillary's
3 loan. It wasn't. It was applied to the McDougal
4 loan. That's just wrong. We were speculating that
5 it had been applied to a different loan because we
6 had a copy of the check, frankly, that showed it had
7 been deposited.

8 Q Are you aware that in Susan Thomases's
9 notes from the '92 campaign that this check for
10 \$20,744.65 is mentioned several times?

11 A I think I read that.

12 Q During the '92 campaign, did you ever ask
13 then-Governor Clinton about this check?

14 A I think Jim Lyons did.

15 Q And what was your understanding of what
16 Mr. Lyons learned from then-Governor Clinton?

17 A I think the President had thought it had
18 gone to Whitewater, which was the basis for us
19 including it in the calculation, even though it
20 didn't -- it didn't seem to fit in.

21 Q Now, then it says "-- not applied to HRC
22 loan and repayment of loan/applied to McDougal note

1 written on personal account." What does that refer
2 to?

3 A Again, I think we thought at the time that
4 it had been applied to another McDougal note at the
5 bank. You know, despite the fact that the Clintons
6 had written the check, they clearly had the check in
7 their canceled checks, and they clearly believed that
8 it was Whitewater. Since it had not been applied to
9 a Whitewater loan, I think we believed that it had
10 been applied or used by McDougal to pay down another
11 loan that he had at the bank. That turned up it's
12 just wrong. It was used to pay down a note that
13 Virginia Kelly had at the bank.

14 Q Then it says "one year later/refinances HRC
15 at Security Bank." What does that refer to?

16 A Originally, this is the so-called \$30,000
17 track 13 loan, the original loan at Madison Bank. At
18 some point, it was refinanced at the Security Bank of
19 Paragould.

20 Q And "lot 13 interest problem," what does
21 that refer to?

22 A That refers to the two checks for \$2000 and

1 \$2500 that the Clintons took a tax deduction on that
2 Whitewater also took a tax deduction on in which the
3 Lyons report indicated should have been taken by
4 Whitewater and not by the Clintons.

5 Q Are you aware of any interest problem
6 related to lot 13 other than that you've just
7 testified to?

8 A Any what?

9 Q Do you know what the reference "lot 13
10 interest problem" -- are you aware of an interest
11 problem with regard to lot 13?

12 A No, I think that's the interest problem.

13 Q So you're not aware of any other interest
14 problem related to the financing of lot 13?

15 A I'm going to have to take a break and make
16 a phone call.

17 Any other interest problem related to --

18 Q Are you aware of any interest problem
19 related to the financing of lot 13?

20 A No, not an interest problem. I know the
21 refinance of the Security Bank had a lower interest,
22 but I'm not aware of an interest problem.

1 We were on the track 13 interest problem, I
2 think.

3 MR. KRAVITZ: Lot 13.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q What does this refer to, this entry, "lot
7 13 interest problem"?

8 A Again, I think it referred to the two
9 checks that the Clintons took interest deductions on
10 that were actually Whitewater interest reductions.

11 Q And the reference "20,744 not properly
12 accounted for" --

13 A Again, it goes back to, again, we thought
14 it was a Whitewater check, but we were unable to
15 account for it. It turned out there was a reason why
16 we couldn't account for it.

17 Q There's a discussion "Chris Wade runs real
18 estate office/Ozark lands," and there's a discussion
19 "he believes that a part owner/no paper/no evidence
20 ownership interest earned in of some kind." What
21 does that refer to?

22 A I believe it refers to the fact that Chris

1 Wade had indicated to someone that he thought he was
2 a part owner or was entitled to be a part owner or
3 that he had some sort of agreement or relationship
4 with McDougal to give him part ownership of the
5 Whitewater Development project, but that there was no
6 paper or evidence of that, and I'm not quite sure
7 whether it was by handling the real estate that that
8 would entitle him -- he basically sold the lots.

9 Whether or not bargaining and selling the
10 lots would entitle him to an ownership interest,
11 whether or not that was his understanding, that could
12 well be what the earning in would be of some kind,
13 that he was going to be able to earn into the
14 transaction or into the ownership, earn his way in.

15 Q "In 1985/McDougal deal Wade," what does
16 that refer to?

17 A McDougal sold the remaining 24 lots in
18 Whitewater in 1985 to Chris Wade for the assumption
19 of \$35,000 of mortgage and this airplane.

20 Q At the very top it says "Blair up/Chris
21 Wade." What does that mean?

22 A I don't know.

1 Q You have no idea?

2 A No. I was going to go look and see if I
3 could find it on the --

4 Q Am I correct that although Wade assumed
5 McDougals' interest in Whitewater in '85, the
6 Clintons were not released from any obligation they
7 had until the balance of the loan was paid off?

8 A Right. And he really didn't -- I think
9 it's incorrect to characterize it that he required
10 McDougals' interest. He basically acquired all the
11 lots. McDougal still had 50 percent. He didn't
12 acquire McDougals' interest in Whitewater
13 Development. He basically bought the last 24 lots.

14 Q McDougal was still obligated on the loan?

15 A He was still obligated on the loans. The
16 Clintons were obligated on the loan. Even with
17 respect to the \$35,000, there was no release. So
18 yes, he became obligated on that 35,000 in addition
19 or contractually, but as far as the Citizens Bank was
20 concerned or First Ozark Bank was concerned, they
21 still had the McDougals and the Clintons on the loan.

22 Q What was the total amount that the Clintons

1 were obligated for on that loan?

2 A At that point?

3 Q Yes.

4 A I don't know. I've seen various figures,
5 13,000, \$10,000. Those are usually in the '89-90
6 range. Excuse me. I'm sorry. There is a letter
7 from McDougal or somebody of which he basically
8 references 35 and says that -- and he has figures in
9 it. It's in the responses to the interrogatories,
10 but he references the 35 and says over and above the
11 35, I think we owe 4 or \$5000. So at that point, the
12 loan may have been at \$40,000 or so. When he wrote
13 the letter, it may have been \$40,000.

14 Q The reference was "not reconstruct
15 11,000." Do you know what that refers to?

16 A Again, if I was looking at the note,
17 reconstruction doesn't sound right. --

18 Q Let's take a look at page 12527 in the
19 handwritten.

20 A The "not" again, it doesn't seem to refer
21 to the reconstruction, if, in fact, that's what that
22 word is. It could have been it was taken as a

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1 commission and the rest of the part could have been
2 not applied to Whitewater.

3 Q Do you know what the 11,000 refers to?

4 A Maybe -- no, no.

5 Q I want to apologize for this.

6 A The 11,000 could be at least at the time of
7 the reconstruction what the outstanding balance on
8 the --

9 Q Flippin loan was?

10 A Flippin loan was. In the Lyons letter, it
11 makes reference to a figure around 11,000.

12 Q On page 12536 and I apologize for this the
13 reference "HUD interstate land sales prospectus, real
14 estate slows down." Do you know what that refers to?

15 A No.

16 Q Do you recall any discussion of HUD
17 interstate land sales prospectus?

18 A Have you looked at the notes? Is that
19 what's reflected in the notes? It looks like it.
20 I'm looking on page 12525. I don't know what that
21 refers to.

22 Q Page 12538 at the top of the typed version

1 it says "owe IRS [WWDC/232,000] [goes to GSLC:]."

2 MR. SNYDER: For the record, you said
3 "slash" when the typewritten versions has a hyphen
4 or a dash.

5 MR. GIUFFRA: I apologize. I certainly
6 have made that error throughout the deposition
7 today. I've been trying to rush.

8 MR. SNYDER: I don't think it's important.
9 I just wanted to clarify for the record.

10 MR. GIUFFRA: Thank you. I appreciate
11 that.

12 THE WITNESS: Do I know what this means?
13 Is that what you're saying?

14 BY MR. GIUFFRA:

15 Q Yes.

16 A No. Again, we could have had a discussion,
17 then, about Whitewater taxes and somebody could have
18 said since they didn't file their taxes, that they
19 owe the IRS and there could have been a discussion
20 about no, that they had a negative net worth of
21 \$230,000 or something. And therefore --

22 Q The Whitewater Development Corporation?

1 A That Whitewater Development Corporation
2 did, and therefore, there are no taxes on it. You
3 know, I'm trying to figure out -- again, that might
4 have been a discussion we had, though I don't recall
5 having it, that would be consistent with what these
6 notes are.

7 Q What does the reference to GSLC refer to?

8 A GSLC, I think, refers to Great Southern
9 Land Corporation. Now, I don't know whether we -- in
10 that same conversation we had a question about the
11 liability on these mortgages because the mortgage --
12 when Jim McDougal transferred the deed out of
13 Whitewater into Great Southern Land, he left the
14 mortgage in Whitewater.

15 So apparently, Whitewater, when IP
16 foreclosed, sued Whitewater and got -- ah -- and got
17 a deficiency. That's probably what that whole thing
18 is. IRS is probably not the Internal Revenue
19 Service. It may be International Paper Realty.
20 Could be. I'm guessing. And the 232 may be the
21 amount of the deficiency in the foreclosure.

22 Again, you know, you and I are

1 speculating. I don't remember, but this could have
2 been a discussion about that.

3 Q Below that there's a reference "sold stock
4 for \$1000." That's the Clintons selling their
5 interest in Whitewater Development Corporation?

6 A That's what I assume.

7 Q Then it says "term as governor -- report as
8 asset/liability/neither."

9 A I think that was a reference to in looking
10 back at the disclosure forms, sometimes they listed
11 Whitewater as an asset. Sometimes they listed it as
12 a liability, and sometimes they may not have listed
13 it.

14 Q This is on the disclosure forms filed in
15 connection with him serving as governor of Arkansas?

16 A Every year he had to file a disclosure
17 form, and I think somebody said they had reviewed
18 those forms and sometimes he listed it as one and
19 sometimes the other.

20 Q Then below that, it says "First Federal
21 candidate disclosure form -- did not disclose because
22 did not know existed." And that's reference to the

1 President not knowing that the Whitewater liability
2 existed as of the time you filed the form in late
3 '91?

4 A I don't know if it's "did not know." He
5 didn't -- the people who were putting it together did
6 not think of this as a -- as one of the Clintons'
7 liabilities, so it was not listed. To say that the
8 President didn't know, he didn't say oh, by the way,
9 I have this mortgage loan up at Flippin, but it was
10 not listed on the Whitewater and it was not listed on
11 the first financial disclosure form.

12 Q Do you recall any discussion at this
13 meeting or any other time of the failure of the
14 Clintons to list their investment in Whitewater
15 Development Corporation on a bank loan application?

16 A Oh, I know Chertoff raised that with me at
17 a hearing. And I know that David Kendall indicated
18 it was listed at a different point on the form than
19 where Michael directed me. So no --

20 Q Other than the time when it was raised at
21 the hearing, are you aware of any other time when
22 there was discussion of the failure of the Clintons

1 to list Whitewater on a --

2 A No. I'm just arguing with the factual
3 premise with that. I'm not sure it wasn't listed on
4 that form. It wasn't listed where Michael directed
5 me.

6 MR. GIUFFRA: I have no further questions.

7 MR. KRAVITZ: Let's go.

8 MR. SNYDER: I have no questions.

9 MR. GIUFFRA: Thank you very much. I want
10 to thank Mr. Lindsey and Mr. Snyder for their
11 cooperation.

12 (Whereupon, at 7:00 p.m., the deposition
13 was concluded.)

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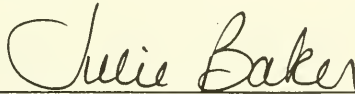
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BRUCE R. LINDSEY

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires SEPTEMBER 30, 1997

**DEPOSITION OF DAVIS FITZHUGH
IN RE: S. RES. 120**

MONDAY, JANUARY 15, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DAVIS FITZHUGH, called for examination pursuant to notice of deposition, at 1:05 p.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.
Majority Associate Special Counsel
H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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1 PROCEEDINGS

2 Whereupon,

3 DAVIS FITZHUGH

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MS. FISHER:

8 Q Mr. Fitzhugh, my name is Alice Fisher. I'm
9 the deputy special counsel for the Majority. To my
10 left is Chris Bartolomucci, and to his left is Jim
11 Portnoy, who is associate special counsel for the
12 Minority.

13 Did I get that right?

14 MR. PORTNOY: Yes, pretty impressive.

15 BY MS. FISHER:

16 Q This deposition is being conducted to
17 Senate Resolution 120, which I believe you said that
18 you have seen a copy of; is that correct?

19 A Yes.

20 Q This resolution establishes the Special
21 Committee which is administered by the Banking
22 Committee to conduct an investigation involving

4

1 Whitewater Development Corporation, Madison Guaranty
2 Savings & Loan Association, Capital Management
3 Services and other related matters.4 Specifically 1(b)(3) of Senate Resolution
5 120 authorizes investigation and public hearings into
6 several issues which will be the focus of today's
7 deposition. For example, (3)(a) authorizes an
8 investigation and public hearings into the operation,
9 solvency and regulation of Madison Guaranty Savings &
10 Loan and any subsidiary or affiliate.11 This deposition is in advance of a public
12 hearing which will start this month and go on to the
13 next month. If you will be called to testify, you
14 will be notified. You will have a chance to review a
15 transcript of the deposition prior to that and at
16 least four days in advance, you will have the
17 opportunity to have a copy of your deposition if you
18 would like.19 I will ask you a series of questions and I
20 ask that you testify under oath. If you don't
21 understand a question or need to take a break, let me
22 know. The stenographer will prepare the record of

1 questions and answers and the deposition will be
2 considered committee confidential until the
3 commencement of the public hearings.

4 I see that you are not represented by
5 counsel today, but you are aware of your right to
6 have counsel here with you; is that correct?

7 A Yes.

8 Q Objections to the form of the question, if
9 you have any, will be noted for the record. Usually
10 the Chairman will rule on any objections. If you
11 don't understand a question, tell me and I will
12 rephrase it.

13 Do you have any questions now before we get
14 started?

15 A No.

16 Q Could you state your name for the record.

17 A Davis Fitzhugh.

18
19
20
21
22

1 Q Could you give us a brief description of
2 your employment history.

3 A Starting when?

4 Q Starting after college, just briefly.

5 A Okay. From college, I went to SMU and got
6 an MBA, and from there I went to work at Republic
7 Bank for about two years. That was in Dallas. Then
8 I went to work at the Cromwell architectural firm in
9 Little Rock, Arkansas.

10 From there I went to law school. After
11 graduating law school, I worked at Baird, Kurtz &
12 Dobson, a CPA firm in Little Rock. From there I went
13 to work at Wengroup, which is a real estate
14 development firm based in New York, but they had
15 offices in Little Rock.

16 From Wengroup, I went to Madison Savings
17 and Loan. Since working at Madison, I have been
18 self-employed.

19 Q Did you speak to anyone about the
20 deposition prior to coming to the deposition?

21 A No.

22 Q Are there any documents that you have in

1 your possession relating to Madison Guaranty

2 Savings & Loan?

3 A No.

4 Q Did you have documents at one time in your
5 possession related to Madison Guaranty Savings & Loan
6 that you have since turned over to other
7 investigative bodies?

8 A Yes.

9 Q When would that have taken place?

10 A The first time was back in either '89 or
11 '90 when they tried James McDougal on some various
12 charges. I don't know what they were. So I guess I
13 gave the FBI or whoever was prosecuting that thing
14 whatever records I had related to those matters.

15 I guess within the past year and a half or
16 two years, I gave the FBI records on what I call the
17 revenue office building, which was a little building
18 across the street from Madison's headquarters. That
19 is really the only thing I ever had any records on.

20 Q The revenue office building?

21 A Yes.

22 Q Could you briefly describe what the revenue

8

1 office building is.

2 A It was an old dilapidated gas station that
3 hadn't been used in there is no telling how long, 10
4 or 15 or 20 years. It had winos sleeping in it. It
5 was really nasty. It is now I call it a revenue
6 office. It is where you go get a drivers license or
7 renew your tags or boat license, stuff like that. It
8 is about 320 square feet.

9 Q Why did you have documents relating to that
10 building?

11 A Because I own it.

12 Q How long have you owned that building?

13 A Since about, well, October of '86. That
14 year may not be right, but I think it is. Maybe
15 '85.

16 Q Did you buy that knowledge while you were
17 employed at Madison Guaranty Savings & Loan?

18 A Yes, I did.

19 Q What were the circumstances that surround
20 that transaction?

21 A Madison bought the building through another
22 employee who did the negotiating with the current

1 owner.

2 Q Who was that?

3 A Who was the current owner?

4 Q If you recall.

5 A I don't remember. It was some company that
6 had their building right next door that was in, like,
7 the cigarette vending machine business, something
8 like that. Madison bought it. They were in the
9 process of renovating what we call South Main Street
10 in Little Rock, which was a very bad part of town.
11 The buildings had not been well taken care of, and
12 there were like adult movie houses. There were
13 prostitutes everywhere. Every other building was
14 unoccupied.

15 McDougal was trying to renovate that part
16 of time. That was just the natural building to buy.
17 He had bought several others. There was nothing
18 special or unique about that one.

19 Q Did Mr. McDougal ask you to buy the
20 building?

21 A I didn't buy it. Dan Garner bought it from
22 that cigarette place. Then I asked McDougal if I

10

1 could buy it from I guess it would have been the
2 service corporation at that point in time, which is a
3 branch of the savings and loan.

4 Q Would that be Madison Financial
5 Corporation?

6 A Yes, MFC.

7 Q What did Mr. McDougal say to you when you
8 asked him? You approached him about buying the
9 building?

10 A Yes.

11 Q What did he say to you?

12 A He said I could buy it.

13 Q Did you do the loan transactions through
14 Madison Guaranty or Madison Financial?

15 A They loaned me the money.

16 Q Was that Madison Guaranty or Madison
17 Financial?

18 A I don't know. Probably Madison Guaranty,
19 because that was the actual savings and loan, but I'm
20 not sure.

21 Q And do you recall approximately how much
22 that loan was for?

1 A I think it was for 110 or 120 or something
2 like that, but I never borrowed the full amount of
3 the loan.

4 Q Meaning you made a down payment?

5 A There was enough money in there to buy the
6 building and renovate it, and I never spent all the
7 money, so I never drew down all the loan proceeds.

8 Q Do you know how much the building was
9 bought for?

10 A I want to say the high 70s or possibly 80,
11 somewhere in that neighborhood.

12 Q And did Mr. McDougal handle the loan
13 transaction or did someone else within the bank?

14 A I don't think he did.

15 Q Do you recall who may have?

16 A Well, I just can't think of his name. Dan
17 or Don.

18 Q Denton?

19 A Don Denton, yes.

20 Q And you continue to own that building
21 today?

22 A Yes, I own it today.

1 Q And has the loan or the mortgage been paid
2 off?

3 A Yes.

4 Q Could you give me a description of how you
5 came to work at Madison -- first I would ask, did you
6 come to work at Madison Financial Corporation or
7 Madison Guaranty?

8 A I don't really know, because I worked for
9 both of them on and off. But to answer your original
10 question, I was working at this company called Win
11 Group Development, and I had a friend at another real
12 estate company, and he said you might want to go and
13 talk to these people at Madison because they are
14 doing great things in real estate. He knew I was
15 interested in development work. So, I was told to
16 go -- I had never even heard of the place when I
17 applied there.

18 Q So, you sent your resume over, or did you
19 contact somebody specifically at the bank?

20 A I don't remember exactly what I did. I
21 guess I made a phone call and they said send a resume
22 and I did and went down and talked with them.

1 Q Who did you talk with at the bank?

2 A John Latham and James McDougal.

3 Q Do you recall what the date was?

4 A Probably early '85.

5 Q And after that meeting, you were given a
6 position at Madison?

7 A Right, within a couple of weeks or so.

8 Q Do you recall what your first position with
9 Madison was?

10 A I was a vice president, but again, I'm not
11 sure if it was the MFC or the savings and loan. I
12 think it was MFC. I'm just not positive.

13 Q And you would have started that in early
14 '85. Do you recall a month?

15 A I think it was in March.

16 Q And who did you work with primarily when
17 you started at the bank in March of '85?

18 A I didn't work with anyone, but I reported
19 to John Latham.

20 Q What were your duties basically?

21 A Well, I guess I was hired primarily because
22 they were interested in having a broker/dealer

14

1 network, securities sales. I told them I was willing
2 to take all the series licenses involved. I didn't
3 know anything about it, but I was willing to try to
4 learn. So, that's really -- that's one of the main
5 things they hired me for, that plus general real
6 estate development.

7 Q What did Mr. McDougal or Mr. Latham tell
8 you about the real estate development that was going
9 on at the bank at that time in early '85 when you
10 were applying for the job or when you first started?

11 A Not a great deal, to be honest with you.
12 They had a project down there called Maple Creek
13 Farms. It was advertised on all the television
14 shows. I already knew about that. I knew they were
15 renovating that Main Street area.

16 McDougal also had a few projects going in
17 smaller towns where he would buy, I guess, kind of
18 rural land and put in either trailer park type
19 developments or something along those lines.

20 Q Did you discuss the Maple Creek Farms
21 project with Mr. McDougal when you arrived at the
22 bank?

1 A Not to any extent, because I never worked
2 on it.

3 Q Do you know who at the bank was involved in
4 that project?

5 A I know who was in charge of selling it, a
6 guy named Pat Harris. But I don't know who was -- it
7 was pretty much up and going when I started there.
8 The roads were in. There were lots and lots of
9 houses out there. I don't know that there was really
10 that much development work going on. I think it was
11 primarily sales.

12 Q Other than Mr. Latham, who else did you
13 come in contact with on a somewhat regular basis at
14 the bank?

15 A On a personal basis or on a reporting
16 business basis?

17 Q A reporting relationship, who worked for
18 you?

19 A McDougal and that was it.

20 Q How often did you have contact with
21 Mr. McDougal?

22 A I can't remember. Sometimes three times a

16

1 day and sometimes once in two weeks.

2 Q What about Mrs. McDougal, Susan McDougal?

3 A I had virtually nothing to do with her.

4 Q Do you recall what the state of the bank
5 was when you arrived in March of 1985, what you knew
6 about the state of the bank?

7 A Not very much. I knew they were considered
8 small, less than \$100 million in assets but growing,
9 and McDougal was recruiting elderly people to make
10 large CD deposits.

11 Q For what purpose?

12 A To grow, I suppose, the asset base of the
13 bank.

14 Q Did he discuss this with you, his
15 recruiting?

16 A No.

17 Q Do you know anybody in particular that he
18 was recruiting?

19 A No. I'm just talking about he would
20 advertise that he would go pick people up at these
21 buildings that were known to have large quantities
22 of, say, 60- and 70-year-old people. He would pick

1 them up in a Rolls Royce or limousine and bring them
2 down to the bank to make a CD deposit.

3 Q Were you aware of any problems that the
4 bank was having when you arrived in '85?

5 A No.

6 Q Did you become aware of that later in '85,
7 early '86?

8 A Well, certainly later, but when I don't
9 know. If I had known there was something wrong, I
10 wouldn't have gone down there to start with.

11 Q Do you know when you began to become aware
12 of the problems at Madison?

13 A When I started hearing about the bank
14 examiners coming and staying for a while.

15 Q And would that have been early '86?

16 A I think it would have been early '86.

17 Q And what did you hear about the problems at
18 that time? What kind of things were going on that
19 were concerning people?

20 A Well, nothing right then and there other
21 than the fact that -- well, I knew something was a
22 little unusual because when the bank examiners came,

1 McDougal left. His reasoning was that he left to
2 give them more room to take over his office, which
3 was a nice gesture, but I guess that really is not
4 why -- maybe that wasn't his main motive.

5 Q When the examiners came to look through the
6 files of the bank, he physically left the office?

7 A That's my recollection. He moved out to
8 Castle Grande.

9 Q He moved to Castle Grande?

10 A I'm not an expert on the whereabouts of
11 James McDougal, so --

12 Q That's fine. I don't expect that anybody
13 is, probably.

14 Who was basically running the day-to-day
15 happenings at the bank during that time when
16 Mr. McDougal left?

17 A I imagine John Latham was.

18 Q Was there anyone else that basically was
19 higher up on the reporting chain?

20 A Not really. As far as who was really
21 running it, there just weren't too many
22 possibilities. There weren't a lot of employees down

1 there. Sarah Hawkins was a compliance officer, but I
2 doubt if she was really running the bank. I don't
3 think Don Denton was.

4 Greg Young was the only person down there
5 with any banking expertise. He was like the CFO, but
6 I don't think he was really running it.

7 Q Was there a board of directors of Madison
8 Financial Corporation?

9 A I think so.

10 Q Do you know who was on the board of
11 directors of Madison Financial Corporation?

12 A No. I could guess. I imagine Latham was,
13 and probably Sarah Hawkins and Steve Cuffman, and
14 some guy from Bald Knob, Peacock, I think was on it.

15 Q Would that be Charles Peacock?

16 A Yes.

17 Q Was there a board of directors at Madison
18 Guaranty?

19 A That's what I mean.

20 Q Do you know about a board on Madison
21 Financial?

22 A I don't think there was.

20

1 Q Were you on either?

2 A No. I was never on the board of directors,
3 and I was never on the loan committee. I was never
4 on much of anything.

5 Q Who was Mr. McDougal's secretary at that
6 time?

7 A Sue Straithairn. It is the only one I
8 remember. I think she was the only one there when I
9 was.

10 Q About how many employees were at the bank?

11 A Well, let's see. There were probably three
12 or four tellers. There were three people who worked
13 in the bank doing like check sorting and stuff like
14 that. There were two people out front that would
15 meet with customers for like CD deposits or loan
16 requests or things like that. There was a string of
17 offices down one side that probably had maybe another
18 five or six people. So less than 20, I think, most
19 of the time.

20 Q And were there other vice presidents other
21 than yourself?

22 A I'm sure there were. The title is

1 meaningless. Virtually everyone was either a vice
2 president or an assistant vice president. You did
3 not have to earn the title.

4 Q So that would have included Mr. Latham?

5 A He was president.

6 Q Mr. Cuffman?

7 A No. He was not an officer or a member of
8 the bank. He was on the board of directors.

9 Q What about Mr. Peacock?

10 A No.

11 Q Just on the board?

12 A Yes. That's my understanding.

13 Q Who were the other vice presidents or
14 assistant vice presidents in the '85-86 time frame?

15 A Somebody whose first name was Brett. I
16 don't remember his name. That may not be his right
17 first name. I think Susan Thomas. These names may
18 not be right.

19 Q To the best of your recollection. I
20 realize it was a long time ago.

21 A I think she was one of the ones like
22 selling the CDs out front.

1 Q Would that have been Brett Farris?

2 A Yes, it probably was. There was Vernon
3 Dutton or something like that. I may be getting that
4 confused with Don Denton. Vernon was an assistant
5 vice president. Well, Don Denton, I don't know, he
6 was probably vice president. He may have been
7 something else. I don't really know.

8 Larry Kuca, but I don't know that Larry had
9 a bank title. I'm not sure if Larry was a bank
10 employee or what he was.

11 Q What was his role?

12 A Mainly as far as I knew he was working on
13 something called Campobello, which was one of
14 McDougal's developments.

15 Q Did you work at all on Campobello?

16 A No.

17 Q Was there a woman named Bonnie Corcoran
18 that worked at the bank?

19 A Yes.

20 Q What was her role?

21 A She was, I think, in charge of the people
22 in the back doing the check processing. I guess she

1 kind of ran the paperwork part of the bank. She may
2 still be down there.

3 Q Was Campobello a project that was ongoing
4 when you arrived at the bank or was it just getting
5 started?

6 A No. It was definitely ongoing.

7 Q Do you know who was involved in Campobello
8 to the best of your recollection?

9 A Well, let's see. Other than say Kuca and
10 McDougal and Latham, there were a group of investors
11 from Little Rock, including Jerry Jones who owns the
12 Dallas Cowboys.

13 Q He is a happy man today.

14 A Yes, he is having a good weekend.

15 There were about four or five others. If
16 there names were important, I could probably think of
17 some of them. That is not really important. Larry
18 somebody or other who was an attorney, and Sheffield
19 Nelson.

20 Q Would that be Larry Wallace?

21 A Yes. And John Flake. That may have been
22 all of them.

1 Q Other than Campobello, did Mr. Wallace,
2 Mr. Jones, Mr. Nelson or Mr. Flake have any other
3 role at the bank?

4 A Not that I'm aware of. I think they were
5 just investors. This is all so old and I may have it
6 scrambled and wrong and everything else.

7 Q I completely understand. I appreciate you
8 trying to help us out.

9 Getting back to the bank examination when
10 the examiners arrived and Mr. McDougal left, what
11 kind of things did you then discover were happening
12 at the bank that may have concerned you?

13 A Well, I was told that there was a big -- I
14 don't know if it was over a weekend or night or
15 whatever, where they made up all kinds of appraisals
16 and put them in the files and no telling what else.

17 Q Who told you that?

18 A I don't really know who told me that. I
19 don't know that it was what you would call real
20 confidential information. So, I could have heard it
21 from any number of people down there.

22 Q Do you know who was involved in that,

- 1 cleaning up the files?
- 2 A Pure hearsay. I mean, Don Denton, Palmer
- 3 and -- well, that's all I really know.
- 4 Q That would be Robert Palmer?
- 5 A Yes.
- 6 Q He was the bank's appraiser?
- 7 A Yes.
- 8 Q Was he the primary appraiser for the bank?
- 9 A As far as I know.
- 10 Q And do you have any knowledge as to why
- 11 they were making up appraisals at that time?
- 12 A I guess there weren't any in the files, but
- 13 I really don't know.
- 14 Q In the loan files.
- 15 Did you have any dealings with Mr. Palmer
- 16 while you were at the bank?
- 17 A I knew him. I met him a few times, but
- 18 that's it.
- 19 Q Did you have any occasion where he would
- 20 prepare appraisals for anything that you worked on?
- 21 A No. I went out to his office once, and I
- 22 don't even remember why. I went with Pat Heritage

- 1 and Steven Cuffman's brother, whose first name
- 2 escapes me at this minute. I don't know why we went
- 3 out there. When you asked if I had any contact with
- 4 him, that's it.
- 5 Q Other than appraisals not being in the
- 6 proper files, were there any other problems that you
- 7 became aware of at the bank when the examiners were
- 8 arriving?
- 9 A Well, I mean I think just the loan
- 10 portfolio in general was in somewhat disarray.
- 11 Q Could you be more explicit? Tell me the
- 12 types of things.
- 13 A I don't really know any explicit details.
- 14 Q Did you have any conversations with anybody
- 15 at the bank at that time about the loan portfolios
- 16 being in disarray or problems?
- 17 A No. I found out after the fact.
- 18 Q Did you have any conversations with the
- 19 bank examiners when they were there in '86?
- 20 A No. Well, now wait. I mean, it is
- 21 possible someone came in and talked to me or
- 22 something like that. But I have absolutely no

1 recollection whatsoever. I would hate to say no, I
2 never did, but I sure don't remember anything.

3 Q At that time, did you become aware that
4 there had been a supervisory agreement with the
5 Federal Home Loan Bank Board with Madison Guaranty
6 from 1984, or a cease and desist order?

7 A Well, at some point I knew about that.

8 Q Do you recall when you became aware of it
9 or how you became aware of it?

10 A No.

11 Q Was it before this second examination in
12 1986?

13 A I don't know.

14 Q Do you recall anything that was outlined in
15 the supervisory agreement or the cease and desist
16 order of 1984?

17 A No.

18 Q Do you recall ever discussing it with
19 anyone?

20 A No. It was not within my kind of
21 jurisdiction or anything I ever worked on.

22 Q Did there come a time when you became aware

1 of the 1986 examiners' findings?

2 A Well, I know that a bunch of them made a
3 trip down to Dallas.

4 Q Do you recall who went down to Dallas?

5 A I know Latham did. I think Sarah Hawkins.
6 I don't know who else went.

7 Q That was a result of the exams that they
8 had been doing in early 1986?

9 A I don't remember the timing of it. I don't
10 know when they went to Dallas or exactly why, but I
11 know they did.

12 Q Did you have any discussions with anybody
13 when they came back from Dallas about the meeting?

14 A I think Latham got fired on the spot, is my
15 recollection.

16 Q Did you ever talk to him about that,
17 Mr. Latham?

18 A No. We weren't close.

19 Q What about Mrs. Hawkins or Ms. Hawkins?
20 Did you discuss the meeting with her?

21 A No. I mean, not -- I wasn't really
22 involved in what was going on down there. They

1 didn't talk to me and I didn't talk to them. When
2 she came back, she and Steve Cuffman and Greg Young
3 kind of took over, is my recollection.

4 Q Was there some kind of meeting at the bank
5 that kind of announced the change in leadership?

6 A No.

7 Q Up until that time, Mr. McDougal had been
8 running the bank?

9 A I think Latham always ran the bank.

10 Q What was Mr. McDougal's role then at that
11 time between the '84 and '86 period?

12 A I don't really know. I guess he was trying
13 to put together these deals, real estate deals.
14 Maybe he ran the bank. I don't think he did. I
15 thought that was John Latham's purpose in being
16 there.

17 Q When you first arrived at the bank, what
18 would you consider your first project or your first
19 responsibility? Was it a wide array of things you
20 were involved in?

21 A I guess -- this may be not exactly accurate
22 because it has been so long. I know I worked on that

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1 broker/dealer, and I tried to get familiar with some
2 of the projects the bank was working on, and I worked
3 on that Main Street project, just learning what they
4 were doing, and they had already purchased quite a
5 bit of property, and finding out what else was
6 available so they could try to buy some more of these
7 buildings and either tear them down or fix them up.

8 Q Other than Mr. Latham, was there anyone
9 else at the bank that you dealt with on those
10 projects?

11 A Latham and McDougal were really the only
12 two people I ever reported to.

13 Q Getting -- trying to take those in order,
14 the broker/dealer project, was that actually a
15 project to issue preferred stock for the bank that
16 then went into what you referred to as the
17 broker/dealer project?

18 A I think they were working on that. But it
19 was also so that they could, I guess, syndicate some
20 of their real estate projects and sell those off to,
21 I think they were wanting groups of 35 or less
22 because it determined what types of regulatory

1 requirements you had to meet and so forth. Those
2 were the reasons that I was told to work on it.

3 Q This was an effort by Madison to raise
4 capital?

5 A I don't know about that. The part I worked
6 on had more to do with the real estate syndications.

7 Q Was that also an effort to sell limited
8 partnerships?

9 A Same thing.

10 Q Is it the same thing?

11 A Same thing.

12 Q At one point in time, in early '85, April
13 of '85, and I can show you some documents here in a
14 minute, Madison Guaranty was involved in some
15 research or an attempt to issue preferred stock, and
16 later it wanted to basically set up a broker/dealer
17 so that it could sell that stock as well. I want to
18 talk about that as opposed to the broker/dealer
19 limited partnership, selling the real estate off.

20 I want to ask you what you recall about
21 that, the first thing I talked about, the preferred
22 stock issuing.

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1 A I don't know anything about that.

2 Q I want to show you a document and hopefully
3 this may help refresh your recollection. It is a
4 document that was not produced by Madison. You may
5 have seen it a long time ago. It is cc'd to you. It
6 is RS 00700 to 702. It appears to be a handwritten
7 memo dated April 3, 1985 from Charles, who I believe
8 is Charles Handley at the Arkansas Securities
9 Department to Beverly, who I believe is Beverly
10 Bassett-Schaffer at the Arkansas Securities
11 Department.

12 It refers to a phone call that you may have
13 made to Madison or about Madison issuing preferred
14 stock. If you could look that over and see if it
15 refreshes your recollection at all.

16 (Witness examined the document.)

17 A It obviously happened, but it sure doesn't
18 help my memory.

19 Q Do you recall any communications you may
20 have had with anyone at the Arkansas Securities
21 Department?

22 A No.

1 Q Do you recall any research you may have
2 done on the preferred stock issue?

3 A That I personally did?

4 Q Yes.

5 A No. See, this is April of '85. I bet I
6 hadn't worked at Madison even a month. Someone
7 probably said "here, do this." So I did it, but I
8 probably had no idea what I was doing.

9 Q Just as a follow-up on that, there is an
10 April 16, 1985 memo that appears to be from you to
11 John Latham on this issue. It is RS 000684 to RS
12 000685.

13 I'm not going to ask you about the
14 substance of the statutes and what they say or don't
15 say. It appears to be a memo that discusses the
16 statutes relating to the issue of preferred stock.
17 Does this refresh your recollection?

18 (Witness examined the document.)

19 A I'm sorry.

20 Q Do you recall early in your tenure at the
21 bank having discussions with anyone at the bank about
22 issuing preferred stock?

1 A No. The only people that probably would
2 have asked me would have been Latham and McDougal.

3 Q Do you recall discussing the issuance of
4 preferred stock with any outside counsel from the
5 bank?

6 A Well, I know it mentions this Rick Massey,
7 and I know I talked with him and went to the Rose Law
8 Firm a time or two. So, I imagine -- I'm sure we
9 talked about that or the broker/dealer in general.
10 But as far as remembering any details of anything, I
11 don't.

12 Q Where do you see that it mentions Rick
13 Massey?

14 A I thought it did in one of these.

15 Q And Mr. Massey was at the Rose Law Firm?

16 A Yes.

17 Q And do you recall that you had
18 conversations with Mr. Massey regarding preferred
19 stock maybe?

20 A No. I just know that I did go there and
21 meet Rick Massey and did talk to him. So, that's the
22 only thing I can think of that we might have talked

1 about. We could have talked about preferred stock or
2 the broker/dealer or limited partnerships. Those are
3 about the only three possibilities.

4 Q Do you recall knowing at the time that you
5 arrived at the bank in April of '85 that Madison used
6 the Rose Law Firm as legal counsel?

7 A I don't think I knew it before I ever
8 started. I guess at some point I found that out.

9 Q Do you recall when you found that out or
10 how?

11 A No.

12 Q Did you learn that the Rose Law Firm was on
13 retainer with Madison?

14 A I may have. I don't know. I mean, it
15 wouldn't have made much difference to me.

16 Q Do you recall any other law firms that
17 Madison used as legal counsel?

18 A Yes. I know they worked with John Selig.
19 He was with Tucker, Selig or whomever, whomever.

20 Q If you had a legal question that arose in
21 your day-to-day business, would you contact
22 Mr. Selig? Is there some person that you generally

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1 contacted that was outside counsel to the bank?

2 A I never spoke with Mr. Selig. I certainly
3 would not have contacted him. I guess if I had a
4 question about something I was doing, I probably
5 would have asked Latham who to ask.

6 Q Do you recall having conversations with
7 Hillary Clinton regarding the preferred stock deal or
8 the broker/dealer deal?

9 A No, not specifically.

10 Q Did you know Mrs. Clinton at the time?

11 A No. There were meetings at the Rose Law
12 Firm that she certainly could have been in, but as
13 far as any extensive -- I may have spoken with her or
14 had a conversation with her, but if I did, it did not
15 stick in my mind, no specifics about it or anything
16 like that.

17 Q You don't recall whether in 1985 you did or
18 did not have conversations with Mrs. Clinton?

19 A No, I just don't remember.

20 Q And how many meetings did you attend at the
21 Rose Law Firm?

22 A I don't even know, to be honest with you.

1 Now, there is another lawyer, but I don't think he
2 was at the Rose Law Firm. His name was Thalheimer.
3 I think he worked for the Arnold, Grobmyer law firm.
4 I met with him a few times about the offerings for
5 the limited partnerships.

6 Q Would that be Latham Thalheimer?

7 A Yes.

8 Q Are you aware of whether Mr. Thalheimer was
9 the commissioner for the Arkansas Securities
10 Department prior to Ms. --

11 A I think he had been, but he obviously
12 wasn't at the time. But he had been.

13 Q Did you have any deals with Ms. Beverly
14 Bassett-Schaffer, who was the commissioner of the
15 Arkansas Securities Department, at any time while you
16 were at the bank?

17 A None that I recall.

18 Q Do you recall Ms. Schaffer ever visiting
19 the bank?

20 A Not that I recall.

21 Q Do you recall her having any meetings with
22 Mr. McDougal?

1 A It is certainly possible, but I wouldn't
2 know, no.

3 Q How about any meetings with Mr. Latham?

4 A Same answer; I just wouldn't know.

5 Q Do you recall approximately the timing of
6 the meetings that you may have had at the Rose Law
7 Firm? Were they early when you first arrived at
8 Madison? Were they later? Were they before the
9 examiners? After the examiners? Just to try to set
10 a date in your mind.

11 A I don't remember, but I would imagine they
12 were before the examiners. Once the examiners came
13 in, most of the stuff I was working on just dropped,
14 or at some point it was dropped. I imagine that's
15 when it was.

16 Q So, do you recall whether it was close to
17 the time you first arrived at the bank?

18 A No, I don't recall.

19 Q Did you know Governor Clinton at that time?

20 A No.

21 Q Did you ever have any conversations with
22 Mr. McDougal about either Governor Clinton or Hillary

1 Clinton?

2 A No.

3 Q So, it would be your testimony that in no
4 conversation that you had with Mr. McDougal
5 Mr. McDougal mentioned either Governor Clinton or
6 Hillary Clinton?

7 A Not to my recollection. I mean, my gosh,
8 you are talking 10 years ago.

9 Q To the best of your recollection.
10 Obviously all these questions are to the best of your
11 recollection.

12 A I don't doubt that he may have said
13 something like I'm going to meet with Bill or Hilary
14 or something like that. But it didn't stick with
15 me.

16 Q Do you recall either Governor Clinton or
17 Hillary Clinton coming to the savings and loan to
18 meet with Mr. McDougal or Mr. Latham at any time?

19 A No. I don't ever remember seeing them
20 there.

21 Q Do you recall -- I'm going to ask you
22 another question about the preferred stock. Do you

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1 recall that at some point in May of 1985 the Arkansas
2 Securities Department approved Madison's request to
3 issue preferred stock?

4 MR. PORTNOY: For the record, I'm not sure
5 that that's exactly what happened. They issued a
6 legal opinion that an S&L could issue preferred
7 stock, but I think there is a technical distinction
8 as to whether they formally approved a request from
9 Madison to do so.

10 MS. FISHER: I believe that the record
11 says -- the letter of May 14th from Ms. Schaffer to
12 Mrs. Clinton says that the Arkansas Securities
13 Department agreed with the Rose Law Firm analysis
14 that an S&L in Arkansas could issue preferred stock
15 and that therefore Madison could do so, and it does
16 mention Madison by name. The record will speak for
17 itself.

18 MR. PORTNOY: I speak to clarify the
19 record. If it ever becomes relevant, we will discuss
20 it later.

21 BY MS. FISHER:

22 Q Do you ever recall that happening?

1 A The fact that they were approved?

2 Q Yes.

3 A I don't know, because so much has been in
4 the papers and you hear all this. I have some
5 recollection in my mind knowing that event took
6 place. Did I know it five or 10 years ago, I don't
7 know.

8 Q Because it appears -- the reason I ask is
9 because it appears that at least at some point you
10 were interested in this issue. There are other
11 billing records from the Rose Law Firm that show that
12 you had conversations with members of the Rose Law
13 Firm on this issue.

14 Whether it sticks out in your mind that you
15 became aware at some point that it was approved or
16 that Madison was allowed to move forward on whatever
17 deal they wanted to do, do you recall at some point
18 working on a project that would allow Madison to
19 purchase a broker/dealer or set up a broker/dealer
20 relationship to issue the preferred stock?

21 A They had either already purchased one or we
22 were in the process of purchasing one. I think the

1 actual purchase took place after I was there. It was
2 from a guy named Thorsen or --

3 Q Thorpe?

4 A Thorpe. Bob Thorpe or something.
5 Whatever. But he had an existing broker/dealer that
6 he wasn't doing anything with. So Madison bought
7 it. I think they bought it after I was there.

8 Q Did you have any involvement in that
9 acquisition?

10 A Other than probably trying to make sure
11 that we had the -- I may have had to have all those
12 exams and the series and so forth in place before we
13 could actually close on it or something like that.
14 That's probably what I did.

15 Q Did you have any conversations with -- I
16 believe you testified you had conversations with
17 Mr. Massey of the Rose Law Firm on this issue.

18 A On some issues. I don't remember exactly
19 what, but I did talk to Rick Massey.

20 Q Do you recall what you talked to him about?

21 A No. I know a few areas that I worked in,
22 so I have to imagine that that's what it was about.

1 Q Could you explain to me the other
2 broker/dealer project that you were -- strike that.

3 Let me finish this out.

4 Did there come a time when you became aware
5 that Madison would not be able to meet certain
6 requirements set forth by the Arkansas Securities
7 Department so that it may use the broker/dealer to
8 issue its preferred stock?

9 A It doesn't stick out in my mind. The whole
10 preferred stock deal is not real high on my priority
11 list. I imagine it was just something they told me
12 to go do and I didn't know anything about it and I
13 did the best I could to try to scrounge around and
14 look up these statutes and so forth.

15 Q Do you recall working on the broker/dealer
16 relationship with the Arkansas Securities Department
17 and submitting financial analyses to the Arkansas
18 Securities Department regarding Madison's net worth?

19 A I don't think I ever produced any documents
20 that show their net worth. Somebody may have given
21 them to me and said give them to them. I may have
22 done that.

1 Q Did you ever work out any of the
2 calculations yourself?

3 A Well, I know I did for, like, the NASD. We
4 had to show a certain amount of capital. There are
5 all kinds of filing requirements we had to meet on a
6 quarterly basis or something like that to show that
7 we had a certain amount of money, net capital or
8 something like that. I think I did all that.

9 Q And how would you go about collecting the
10 information that would allow you to submit, for
11 example, the quarterly filing reports?

12 A I don't know. I think we had an account
13 set up and it had money in it and all it did was sit
14 there. I think once or twice we were written letters
15 because we didn't have enough money. I know we did
16 something wrong several times, but it was pretty
17 minor. I don't think we ever got fined. But that's
18 really all I can remember. It was pretty much my job
19 to handle the paperwork on the broker/dealer.

20 Q What is it that you are referring to that
21 there was an account set up that had money in it that
22 just sat there? What exactly is that?

1 A I can't even remember. But I know we had
2 to have a certain amount of capital. So it must have
3 been somewhere. To my knowledge, there was never any
4 activity whatsoever with that broker/dealer. We
5 didn't do one thing with it.

6 MR. PORTNOY: Can I ask a clarifying
7 question?

8 MS. FISHER: Absolutely.

9 MR. PORTNOY: I guess I'm a little confused
10 about what entity you prepared forms for. Was it for
11 the broker/dealer or for Madison Guaranty?

12 THE WITNESS: For the NASD.

13 MR. PORTNOY: It was for the broker/dealer
14 itself. So the capital account you are referring to
15 is a broker/dealer capital account rather than a
16 Madison account?

17 THE WITNESS: Yes.

18 BY MS. FISHER:

19 Q Did you ever file any quarterly reports for
20 Madison that they would file with the Federal Home
21 Loan Bank Board?

22 A For a banking loan? From a banking

1 standpoint?

2 Q Yes.

3 A No.

4 Q Who at the bank was responsible for doing
5 that?

6 A There were only two people that I can think
7 of that possibly could have done it, Greg Young or
8 John Latham.

9 Q To the best of your recollection, they
10 would have been the ones who were filling out the
11 calculations for the quarterly reports for the bank?

12 A They are the only ones to my recollection
13 that had any financial knowledge of the operation of
14 the savings and loan from a banking standpoint.
15 Well, maybe Don Denton, but I don't know that he
16 would have done something like that. I think he was
17 more of a loan officer.

18 Q Could you explain to me what the limited
19 partnership project was, what it was, who worked on
20 it.

21 A I think I am the only one who worked on
22 it. What it was, they had some of these properties,

1 and I think Campobello was one. The big picture was
2 Madison owns real estate and they wanted to sell off
3 units, partnership units to investors. In order to
4 do that, you have to meet securities laws,
5 regulations, requirements and so forth. You also
6 have to have a broker/dealer, a license to sell these
7 things.

8 So, that's what I was doing as far as the
9 limited partnerships, is set up a broker/dealer, in
10 their case buy one, get all the licenses required to
11 properly operate it and then, assuming there was ever
12 a product, sell it.

13 Q There never was a product; is that correct?

14 A Never.

15 Q So you were never involved in any of the
16 selling; is that correct?

17 A No. There was nothing to sell.

18 Q Am I correct then that the broker/dealer
19 was to sell both preferred stock and limited
20 partnership shares then?

21 A Well, when I first started there, to me it
22 was presented to me the main purpose was to syndicate

1 real estate. I guess -- this whole thing about
2 capital stock just doesn't register with me. I know
3 doubt did some of this, but it was apparently not
4 very high priority or never went very far or I didn't
5 spend that much time on it.

6 Q Did you work with anyone at the Mitchell,
7 Williams firm, John Selig or any of his associates on
8 the broker/dealer relationship, the limited
9 partnership relationship or the stock deal?

10 A I may have, but I do not -- if you have a
11 name, I could tell you if I remember it or know it.
12 Yes, there was one girl down there that I think I
13 talked to a few times. That's it. I don't know what
14 her name was. I'm not even sure that's what I talked
15 to her about. I think that may have been some
16 totally other matter.

17 Q Other than Mr. Massey, do you recall
18 working with anyone else at the Rose Law Firm with
19 regard to any of these matters?

20 A No.

21 Q Were you involved in doing any projections
22 for the broker/dealer operations, financial

1 projections?

2 A No, I don't think so. As far as saying we
3 might sell X number of units of this or that, I don't
4 recall doing any.

5 Q Do you know who the other employees of the
6 bank would have been who would have been discussing
7 these issues with outside counsel?

8 A Well, maybe some of the -- maybe Brett
9 Ferris or Susan -- no, it wasn't Susan. It was
10 Sarah. There were two Sarahs down there, Sarah
11 Hawkins and Sarah Thomas. Maybe they would have
12 talked about it because they may have also been
13 recruited to do some selling of some of the things
14 because they were selling CDs. They might have sold
15 either the stock or limited partnerships. That is
16 only a guess.

17 Q What about Sarah Hawkins? Would she have
18 been working on this?

19 A It is certainly possible. She was like the
20 compliance officer. She should have been in charge
21 of everything that had to do with regulations.

22 Q Do you have any independent recollection of

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1 working with her on any of these issues?

2 A I know I spent some time in her office
3 going over some things. We very well may have talked
4 about the broker/dealer or who knows what. I
5 definitely worked with her on some things, but I
6 don't know what.

7 Q I want to show you a document, RS 00384,
8 dated December 27, 1985, which appears to be a letter
9 from the Rose Law Firm, Richard Massey, to you,
10 enclosing application forms for the broker/dealer.
11 It is dated December 27, 1985. I want to first ask
12 you if you recall being sent this document.

13 A No.

14 Q Is it your recollection that you were
15 working on the broker/dealer registration and
16 application prior to this time, which is late '85?

17 A Yes. This looks a little late to me
18 because I would have expected that by this time we
19 had already purchased that other one. So, I don't
20 know why we would have gotten this. But my dates may
21 be all wrong. It would be pretty easy to find out.

22 Q So -- just a second.

1 (Pause.)

2 Do you recall that Madison was informed by
3 the Arkansas Securities Department that it could not
4 go through with the broker/dealer relationship unless
5 it met its net worth requirements and that it was
6 having problems meeting its net worth requirements
7 under the federal standards in order to do this?

8 A I knew they were having trouble meeting
9 their different accounting qualifications.

10 Q Did you have any discussions with anybody
11 at the bank about meeting these qualifications?

12 A You mean the broker/dealer?

13 Q The requirements to meet net worth in order
14 to do the broker/dealer registration.

15 A No, but they very well could have taken
16 place. I'm sure if it affected the broker/dealer
17 that I was trying to operate and we didn't have
18 enough net capital or whatever was required, I
19 imagine I would have known about it.

20 Q Do you recall being aware that they were
21 having problems meeting their net worth requirements
22 in December of 1985?

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1 A Well, I know we were having some trouble at
2 some point in time because I told you we got some
3 letters. I don't know if we got fined or whatever,
4 but I know we had some problems with NASD on one or
5 two occasions for either filing late or not having
6 enough capital, and it may have been capital in the
7 savings and loan that we were using to do the
8 broker/dealer.

9 Q Do you recall discussing the net worth
10 requirements with anybody at the bank?

11 A Not specifically. It may have happened.

12 Q Do you recall discussing it with
13 Mr. McDougal?

14 A Well, no, but I probably would have been
15 more likely to discuss them with John Latham than
16 Mr. McDougal.

17 Q Do you recall at that time that you may
18 have been discussing these things with John Latham,
19 discussing other problems that the bank was having?
20 This would be in 1985, prior to when the examiners
21 arrived.

22 A No.

1 Q Did Mr. McDougal and Mr. Latham or yourself
2 have anybody specifically in mind with regard to who
3 the limited partnership interests were going to be
4 sold?

5 A I didn't, and I don't know if they did or
6 not.

7 Q I want to next ask you about the
8 development which is known as Castle Grande. If you
9 could just explain for the record what your
10 understanding of what that is, how it came about.

11 A Well, are we talking about IDC or Castle
12 Grande?

13 Q Why don't you explain for me what you see
14 as the difference, if any.

15 A IDC was a purchase by Seth Ward of a large
16 tract of land that IDC, Industrial Development
17 Corporation, used to own. Castle Grande included
18 some of the acreage that was in IDC, and it was a
19 manufactured housing -- it wasn't a trailer park, but
20 it was a manufactured housing subdivision.

21 Q And at the time of the initial purchase by
22 Mr. Ward from IDC, were you aware that Madison

1 Financial Corporation also purchased a portion of
2 that IDC land?

3 A Yes.

4 Q What is your knowledge of that transaction?

5 A I thought they purchased everything that
6 IDC owned.

7 Q That Madison Financial purchased. And then
8 how did Mr. Ward become involved?

9 A I think he was the one that negotiated the
10 purchase.

11 Q He negotiated the purchase on behalf of
12 Madison Financial Corporation?

13 A I believe so.

14 Q Was Mr. Ward -- were you at the bank when
15 this purchase took place?

16 A Yes.

17 Q Was Mr. Ward an employee of the bank at
18 that time?

19 A I think he later was an adviser or -- he
20 had a desk down there for a little while but not for
21 a very long period of time.

22 Q When did he arrive on the scene? Was he

1 there when you got there in April or March?

2 A No. It was several months, either late
3 summer or early fall.

4 Q Is the Castle Grande development the first
5 thing you are aware that Mr. Ward was working on for
6 the bank?

7 A I don't know that he worked on the Castle
8 Grande thing. As far as I know, Seth Ward bought the
9 land that IDC used to own and that was it.

10 Q He worked out the initial transaction?

11 A Right.

12 Q And are you aware that during the initial
13 transaction, about 600,000 worth of land or 400 acres
14 went to Madison Financial Corporation, and the other
15 portion of the land, which was acreage north of 145th
16 Street, went to Mr. Ward personally?

17 A I knew there was a split, and I guess now
18 that you mention it, I do recall it had something to
19 do with the highway. The north went one way and
20 south went the other. I thought it had to do with
21 the fact that Madison could only have so much money
22 in their service corporation, and they were trying to

1 stay within the guidelines.

2 Q So, to stay within the guidelines, they set
3 up Mr. Ward as kind of the purchaser to warehouse the
4 land; is that your recollection?

5 A I guess that's what happened. I really
6 didn't remember the fact that they split it until you
7 mentioned it right now. I do remember something
8 about that.

9 Q Do you recall that was to get around the
10 bank regulation of direct investment by the service
11 corporation of 6 percent?

12 A I think that rings a bell.

13 Q Do you recall having any discussions with
14 anyone at the bank about that, how the transaction
15 was split or why it was split?

16 A I think it was already done. Certainly no
17 one asked me my opinion about it.

18 Q After the fact then, did anybody tell you
19 why they did it that way?

20 A I learned it one way or another. I don't
21 know who told me or how I found out.

22 Q When you learned it, what was the substance

1 of what you learned?

2 A Just what you said, that it was split from
3 one side of 145th Street, and I guess half ownership
4 went one way and half went the other.

5 Q Is it your understanding that the -- strike
6 that.

7 Is it your understanding that the actual
8 land that was purchased from IDC, more than half
9 going to Mr. Ward and the other half or a portion
10 going to Madison Financial Corporation, was actually
11 part of one whole development as far as the bank was
12 concerned?

13 A Well, again, I just thought they bought
14 everything that IDC owned. There was some land that
15 wasn't anywhere near this 145th Street that was
16 included as well.

17 Q Of the land that was near the 145th Street,
18 and you have described one portion of it which was a
19 subdivision of manufactured houses, can you describe
20 just for the record other portions of it to the best
21 of your knowledge, what was on that land?

22 A On the whole thing?

1 Q Yes.

2 A The only other like structure, I think
3 there was -- I mean the Levi Strauss building that
4 was the subject of the charges against McDougal, I
5 guess some other things were also, that was on it. I
6 think there was a fire station on it next to Castle
7 Grande. As far as any structures or buildings, I
8 don't think there were any others.

9 Q So mostly just land?

10 A Just land.

11 Q And as far as you knew, Madison Financial
12 Corporation was attempting to sell any portion of the
13 land that it could?

14 A Uh-huh.

15 Q And are you aware that the whole portion of
16 the land that was bought from IDC was considered the
17 Castle Grande development?

18 A No. I mean, to me it was always the IDC
19 property, and Castle Grande was a part of it, was
20 something within it but separate.

21 Q And was that, the Castle Grande --

22 A I don't think Castle Grande existed.

1 Q The reason I ask is because there are some
2 minutes of a board meeting. I don't know that I have
3 them with me. They are from Madison Financial right
4 before the closing of the purchase which designates
5 the entire portion as Castle Grande Estates or Castle
6 Grande. I want to try to be clear for the record.
7 It is Castle Grande something.

8 A Estates. That's how I knew it.

9 Q It was considered the whole development,
10 not just this portion. That's where the confusion I
11 think comes from as far as from the bank's
12 standpoint.

13 A I'm confused, too. I'm not sure what you
14 are asking me.

15 Q I forget my question at this point.

16 A I don't think Castle Grande existed when
17 Madison purchased IDC.

18 Q Okay. What I was wondering -- when do you
19 think that it started to exist then?

20 A I think they decided to put residential
21 housing on the south side of 145th street, make it
22 this manufactured housing stuff and call it Castle

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1 Grande. That's what I think happened, but that may
2 not be right.

3 Q And what I was trying to explain to you,
4 which was the basis for my question, there are
5 minutes of September 1985 from Madison Financial
6 Corporation board meeting that talks about the
7 purchase from IDC and calls the entire development
8 Castle Grande.

9 A Oh.

10 Q At least that suggests that from the bank's
11 perspective, the entire land was Castle Grande and
12 this portion with the manufactured houses may have
13 been referred to as Castle Grande Estates. I'm just
14 trying to get your understanding as a member of the
15 bank if that comports with it.

16 A No, that was never my understanding. It
17 may have been everyone else's but it wasn't mine.

18 Q What involvement did you have, if any, in
19 developing this land?

20 A Castle Grande or any of it? None.

21 Q Were you involved in selling any portions
22 of the land?

1 A I think I went out there two or three times
2 to look at it. I never sold anything. I was never
3 involved in putting any streets or anything having to
4 do with the development of anything out there.

5 Q Did you become aware at a later point in
6 time that the initial acquisition from IDC was
7 considered a fraudulent transaction by the Federal
8 Home Loan Bank Board because of the way it was
9 structured to allow Mr. Ward to buy a portion of it,
10 to basically warehouse the land to get around the
11 direct investment rule?

12 A Did I become aware at some point in time?

13 Q Yes.

14 A Yes, after I wasn't working there any
15 longer.

16 Q So not until after you left the bank. When
17 was it that you left the bank?

18 A I think in the summer of '87.

19 Q What were the circumstances of you leaving
20 the bank?

21 A Well, after having about seven different
22 offices and 10 different job titles, I had nothing to

1 do there. It was rather apparent to me and to
2 everyone else. They brought in a guy named Tommy
3 Trantham to, I guess, take over at that point in
4 time. They fired me. They gave me a one-month's
5 severance and said we don't need you, which was
6 apparent to everyone.

7 MR. PORTNOY: Could you restate when that
8 occurred.

9 THE WITNESS: I think it was in the summer
10 of '87.

11 BY MS. FISHER:

12 Q To the best of your knowledge, who either
13 at the bank or outside of the bank was involved in
14 the Castle Grande development, either developing it
15 or selling it?

16 A Well, certainly McDougal. Outside the
17 bank?

18 Q Inside or outside the bank.

19 A I can't remember the guy's name. His wife
20 was a receptionist down there. He was a dirt
21 contractor. It starts with an M or something.

22 MR. COLE: Off the record.

(Discussion off the record.)

MR. PORTNOY: I would like to state for the record that Lance Cole of the Minority staff has joined us and will be with us henceforth.

BY MS. FISHER:

Q Other than McDougal, you recollect that R.D. Randolph was involved with Castle Grande?

A I think he did what I call the dirt work down there, cutting in the streets and whatever utilities were put in. I think he did it.

Q Anybody else come to mind?

A Well, I thought Vernon Dutton had something to do with it, but that may not be right. They set up something called Master Developers to buy a part of it, which was some of Susan's brothers, I believe.

Q That would be Jim and Bill Henley?

A Sounds right. I think Jim Guy Tucker either bought -- I think he bought some land out there. He had something to do with part of it, but I don't know what. I think he bought some acres.

Q To the best of your recollection, what was

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Master Developers?

A I don't really know. I mean, it was a corporation that owned land. That's all I know.

Q And the land that they owned was at the Castle Grande development.

Other than the initial acquisition, what was the extent of Mr. Ward's involvement in the development?

A Nothing that I know of. I mean as far as any further work, I'm not aware of any.

Q Did he continue to stay at the bank during that time?

A Very little, but some.

Q Do you know what else Mr. Ward was working on at the bank?

A No.

Q Did Mr. Randolph have any other dealings with the bank, to the best of your knowledge?

A I think he did some other dirt work for McDougal on other projects.

Q Other than that?

A Other than dirt work? Not that I'm aware

1 of.

2 Q Now, I believe that at some point in time
3 you came to buy what has been referred to as the Levi
4 Strauss building; is that correct?

5 A That's correct.

6 Q Can you explain for the record how that
7 came about.

8 A Sure.

9 Q First of all, the Levi Strauss building was
10 on the Castle Grande development; correct?

11 A It was part of the IDC purchase.

12 Q Part of this transaction we are talking
13 about?

14 A Yes.

15 Q Was that north of 145th Street?

16 A Yes.

17 Q When you bought it, did you buy it from
18 Madison Financial Corporation or did you buy it from
19 Mr. Ward?

20 A I thought I was buying it from Madison
21 Financial. You said Seth Ward owned it. He must
22 have sold it to Madison and I guess Madison sold it

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1 to me.

2 Q Could you explain how it came about that
3 you went and bought this building.

4 A Sure. James McDougal asked me to come up
5 into his office, asked if I had a valid real estate
6 license at that time, which I did. He was going to,
7 I guess, have me as a broker on the sale of that
8 building, pay me a 10 percent commission which would
9 serve as the down payment back to the bank and sell
10 me the building.

11 Q What did you say to him when he offered you
12 this?

13 A I wasn't very much interested. But it
14 wasn't are you going to; it is you are going to buy
15 this building.

16 Q Is this the first time something like this
17 had happened at your tenure at the bank where
18 Mr. McDougal said you are going to do such-and-such?

19 A Certainly the first time it happened to
20 me.

21 Q Had you heard of it happening to others at
22 the bank at that time?

1 A I think I became aware either at the same
2 time or shortly thereafter that several people bought
3 property.

4 Q Under that same arrangement that you
5 described?

6 A Well, I don't know. I don't know if it was
7 the same arrangement or if it was different.

8 Q Do you know whether -- who do you recall
9 were the other people?

10 A Well, actually the only one I know of for
11 sure was Larry Kuca. Again, this is all hearsay. I
12 never sat down with Larry and said hey, did this
13 really happen.

14 It was my understanding he bought a piece
15 of property in what was called the 65th Street
16 industrial park that was owned by IDC. I imagine
17 they did the same thing with him, although I don't
18 really know that for sure. I don't know the terms of
19 anyone else's financing.

20 Q When you had this meeting with Mr. McDougal
21 about the purchase of the Levi Strauss building, was
22 it a done deal at the end of the meeting or did you

1 agree to it right then and there? How did it work?

2 A I told them that -- I didn't really know
3 what to say, to be honest with you. At some point I
4 told them I was not going to buy that building unless
5 I got nonrecourse financing, for obvious reasons.

6 I think one or two or three days passed
7 when I worked with Greg Young trying to figure out
8 what would be some terms that this thing would make
9 some reasonable sense for someone to buy it as far as
10 purchase price and interest rate and so forth.

11 Q Why don't you describe what the building
12 looked like at that time.

13 A Well, I can't remember how big it was. It
14 was your basic concrete tilt-up wall construction
15 warehouse. Levi Strauss was in the process of
16 installing air conditioning. I think it was about
17 60,000 square feet now that I think about it. I
18 remember thinking to air condition that much space is
19 very, very expensive. They were willing to do it and
20 pay for it.

21 Q So, it was actually a jeans factory?

22 A Not a factory. It was a distribution

1 warehouse. It was a very nice, high quality
2 building. It is still there. I haven't been out
3 there in years. But I understand the Sharper Image
4 now uses it for local distribution.

5 Q You spoke to Mr. Young about the
6 transaction. Was there anyone else at the bank that
7 you spoke to about purchasing the Levi Strauss
8 building?

9 A I think Don Denton. He made me fill out or
10 sign some forms so they could take something to the
11 loan committee and get the loan approved.

12 Q Did you discuss either with Mr. Young or
13 Mr. Denton the fact that you may be concerned about
14 the purchase at all?

15 A I very well could have. I mean, everybody
16 knew that I owned that building before I ever saw
17 it. You don't buy a \$500,000 building sight unseen.

18 Q How did that come about that you owned the
19 building before you saw it?

20 A I didn't have time to go out and look at
21 it. They were in a hurry to get this thing
22 processed. As long as I had nonrecourse financing, I

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1 didn't care.

2 Q Do you have any understanding why they were
3 in a hurry to get the building purchased?

4 A I imagine to get it off the books.

5 Q Was there something coming up that they
6 needed to get this off the books?

7 A I guess maybe they thought the examiners
8 were coming. I mean, that's the only thing -- no, I
9 don't know of anything in particular. I imagine that
10 could have been it.

11 Q Did you have any other loans at Madison at
12 the time?

13 A At that time, no. But in conjunction with
14 that one, I got a loan for the revenue office across
15 the street.

16 Q At the same time?

17 A Well, it was about one or two or three days
18 later I told McDougal that I wanted to buy the
19 revenue building across the street. I think both
20 loans were processed at the same time.

21 Q Now, was the purchase of the revenue
22 building something you had been thinking about prior

1 to this meeting with Mr. McDougal about the Levi
2 Strauss building?

3 A No.

4 Q How did it come to your mind that you would
5 do this at the same time?

6 A Well, if he was in the business of selling
7 property, I felt like that was a good business
8 investment. I tried to get the same terms and
9 conditions on the purchase of the revenue building
10 that I got on the Levi Strauss building and I
11 couldn't.

12 Q That is, nonrecourse loan, 10 percent
13 commission which would go for the down payment?

14 A No, I wasn't trying to get a 10 percent
15 commission. I was trying to get a 10 percent
16 interest rate, which at the time would have been
17 below market.

18 Q The interest rate you got on the Levi
19 Strauss building, was that below market?

20 A 10 percent.

21 Q That was below market?

22 A Yes.

1 Q What was market at the time?

2 A I don't know. The interest rate I got on
3 the revenue building was 11 percent. I certainly
4 could not have gotten a better rate anywhere else.
5 It was at least 11. I did not get any real estate
6 commission on the purchase of the revenue office.

7 Q So, the down payment for the revenue office
8 basically came out of your own pocket?

9 A Yes. Not only that, I thought I was doing
10 them a favor. I could get another \$70,000 off the
11 books. I was trying to help out. It was my idea.

12 Q Were there any attorneys involved in the
13 transactions, either of them?

14 A No. I drew up the nonrecourse language
15 myself.

16 Q Was there an actual closing for this loan?

17 A We were sitting in Greg Young's office and
18 he handed me a check for \$50,000. I signed it and
19 handed it back.

20 Q That was the down payment for the Levi
21 Strauss building?

22 A Yes.

- 1 Q What about the loan on the revenue
2 building? Was there any sort of closing for that
3 loan?
4 A Not that I remember.
5 Q Was there an appraisal for the Levi Strauss
6 building at that time?
7 A I think there was.
8 Q Do you know who did the appraisal?
9 A I think some guy named Betz or something
10 like that.
11 Q Do you know what the property was appraised
12 at?
13 A A million dollars or some ridiculous
14 amount.
15 Q "Ridiculous" meaning --
16 A It certainly was not worth that.
17 Q Was that appraisal done prior to or after
18 the quote, unquote, closing of this deal?
19 A I think it was done prior, but I'm not
20 sure. It had no bearing on the sale or closing or
21 anything else.
22 Q Do you recall seeing the appraisal prior to
-

- 1 the closing?
2 A No. At some point. I think it was after
3 the closing. It would not have made any difference
4 if the appraisal was there or wasn't there or what it
5 was for or anything.
6 Q Do you have any idea about how much the
7 property was worth at that time?
8 A What it was really worth?
9 Q Yes.
10 A Well, I can only guess. Probably 3- or
11 \$400,000.
12 Q So less than half of what it was appraised
13 at?
14 A Less than a million --
15 Q Less than half a million.
16 A I tend to appraise things on the low side.
17 A fire sale, you probably could have easily gotten
18 250. It may have been worth 450 or 5, but it wasn't
19 worth a million.
20 Q Did you have any other dealings with
21 Mr. Betz?
22 A No. I didn't have any dealings with him

1 then.

2 Q You didn't discuss the appraisal with him?

3 A Not that I recall. I didn't order it. I

4 don't know who ordered it.

5 Q Do you know of any other individuals who
6 were asked to buy this property who may have refused?

7 A No. What you said is the first I ever
8 heard that. I didn't know anyone else refused.

9 Q Did you know anyone by the name of Bob
10 Nash?

11 A No.

12 Q Did you have any business dealings with --
13 strike that.

14 The loan to purchase the building was
15 \$525,000; is that correct?

16 A Yes.

17 Q And you made a \$50,000 down payment with
18 the 10 percent commission check on the loan; is that
19 correct?

20 A Uh-huh.

21 Q Were there any -- was there anyone else
22 involved in the ownership of this property?

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1 A No.

2 Q Did Madison Financial Corporation have an
3 option to buy back the property?

4 A No. To clarify, the intent was I wasn't
5 going to own that for 30 years. The thinking was
6 that would be one of the properties that would be
7 syndicated and I would sell it back, but if I could
8 make any money off of it, I think I was supposed to
9 be able to keep any kind of profit. That was like an
10 incentive, an employee incentive or something like
11 that. Unbeknownst to me, it wasn't worth the
12 \$525,000, so no money to be made.

13 Q What eventually happened with the property?

14 A I gave it back to them. Well, when Madison
15 kind of started unraveling, I called Steve Cuffman
16 and asked him if he knew what was going on, was he
17 aware of everything that had taken place. He was on
18 the board of directors and I assumed he was. And he
19 wasn't aware of what was going on. When I told him,
20 we agreed that we needed to unwind this thing.

21 Q What are you referring to when you say
22 "what was going on"?

- 1 A Specifically with my building.
2 Q And this was a nonrecourse loan?
3 A Uh-huh.
4 Q And did there come a time when the
5 documents were changed to make it a recourse loan?
6 A Yes.
7 Q Could you explain how that came about?
8 A Well, I was given a document that was very
9 similar in all respects to the one I had originally
10 signed and said here, sign this.
11 Q Who gave you that document?
12 A Don Denton.
13 Q And when did that occur?
14 A Well, in the hallway one day. I don't know
15 when.
16 Q Were the examiners there at that time?
17 A They were either there or due.
18 Q Were you aware -- was it common knowledge
19 at the bank that the examiners were coming prior to
20 the time they arrived?
21 A Yes.
22 Q How much in advance of their arrival did

- 1 the bank or employees of the bank know that the
2 examiners were coming?
3 A Well, I suppose the people involved in that
4 more directly would have certainly known more than I
5 would. I was always told they are coming next week
6 and they wouldn't come. That went on literally for
7 months.
8 Q Did that start in either late '85 or early
9 '86 or do you recall when? You testified earlier
10 that you believe they came around February '86.
11 A Uh-huh.
12 Q So it was a month prior to that or two
13 months prior to that when they were expected?
14 A I don't know the exact dates. But I know
15 that they were always going to come next week and
16 didn't come and that went on for quite a while. At
17 least that's my recollection. Some people may have
18 known they really were going to come on a certain
19 date, but I didn't.
20 Q So, getting back to what we were discussing
21 before, Don Denton gave you papers and said sign
22 these. Could you explain what those papers were.

1 A The note looked exactly the same and had no
2 nonrecourse language on it.

3 Q What did you say to Mr. Denton at that
4 time?

5 A I was not interested in signing it. There
6 is no incentive. Why would I?

7 Q What was his response?

8 A Sign it or else.

9 Q Or else what?

10 A Well, I guess or else you are out the
11 door. They couldn't really force me to sign it other
12 than hanging my job over my head.

13 Q So what happened next?

14 A Well, I felt like I had no choice but to
15 sign it. I didn't much care for it. I guess in the
16 back of my mind I felt like it was totally invalid.
17 If it ever came down to it, it would not stand up, it
18 would still be a nonrecourse loan, because I think it
19 is called an aleatory contract where if you are
20 forced to sign something under duress, it is not
21 valid. I didn't like it, but under the
22 circumstances, I didn't feel like I had a whole lot

1 of choice. I didn't want to go out looking for
2 another job.

3 Q Other than Mr. Denton, was anyone else
4 involved in changing the loan documents to make it a
5 recourse loan rather than a nonrecourse loan?

6 A I'm sure Mr. Latham was.

7 Q How about Mr. McDougal?

8 A I have no idea. I would expect him to know
9 about it, but I could not say for a fact that he
10 discussed it with me or anything like that.

11 Q Trying to pinpoint this at a time, was this
12 when Mr. McDougal's office was at the bank or when he
13 moved out to Castle Grande?

14 A I don't remember.

15 Q Again, trying to set it in time, was it
16 before that weekend when everybody came in to clean
17 up the loan files?

18 A I think so.

19 Q So, it was prior to when the attempt was
20 made to have people come in over the weekend to clean
21 up the appraisal files and the loan portfolios?

22 A I can't say for sure, but I think so.

1 Q But around the same time probably?

2 A I don't know.

3 Q Did you have to fill out a personal
4 financial statement with the loan application?

5 A Yes.

6 Q And was that prepared after the loan went
7 through or before?

8 A Probably after. Let me put it this way.
9 The loan was not contingent upon what was on that
10 financial statement.

11 Q Other than this appraisal by Mr. Betz on
12 the Levi Strauss building, which I believe you may
13 have referred to in another statement that you have
14 given as a joke, were you aware of any other
15 inaccurate or forged appraisals at the bank?

16 A I think every one -- when I say every one,
17 I suppose that you kind of thought that maybe some of
18 their appraisals weren't just entirely perfect or up
19 to snuff. They were a little loose in the appraisal
20 process. I don't know why I had that general
21 feeling, but I did.

22 Q And again, at the end of the day, basically

1 you quit claimed the property and let them foreclose
2 on it; is that correct?

3 A No, it was never foreclosed.

4 Q You gave it back?

5 A Yes.

6 Q Did you get anything in return?

7 A No.

8 Q You just got released from the mortgage?

9 A Yes. I guess they released the mortgage.

10 I imagine I quit claimed it back. I don't know if I
11 did a warranty deed or what I did. I don't remember
12 the specifics of that. It was never foreclosed on.

13 Q Before you gave the property back, were the
14 loan documents changed again to make it a
15 nonrecourse?

16 A No.

17 Q So on the books it was still recourse?

18 A I don't know about on the books. I don't
19 know what they did.

20 Q You never changed it back again?

21 A They never said come in and sign another
22 note or anything, no.

1 Q Between the time you purchased the property
2 and the time you gave the property back, about how
3 much out-of-pocket expenses or taxes did you pay into
4 the mortgagor pay off on the loan?

5 A The biggest problem I had was the fact that
6 when they paid me that \$50,000 commission, I had to
7 pay income taxes on the \$50,000. I guess we didn't
8 really think that through or I didn't think it
9 through. It was probably not much concern to them.
10 That was my biggest problem.

11 Q Did you discuss that with them?

12 A I did at a later time.

13 Q Did they compensate you for that?

14 A No.

15 Q Were you involved in any other transactions
16 at Castle Grande?

17 A No.

18 Q Did you have any business dealings with
19 Governor Tucker?

20 A No.

21 Q Did you have any business dealings with
22 former Senator Fulbright?

1 A No.

2 Q Were you aware that they bought portions of
3 the Castle Grande development?

4 A Yes. Well, Fulbright I wasn't so much
5 aware of, but Tucker I was.

6 Q Were you aware that he also bought the
7 sewer and water utility that was located on the
8 property?

9 A Yes.

10 Q Did you have any involvement in that?

11 A No.

12 Q Did you ever become aware that there was a
13 proposal to set up a brewery or a tasting room on the
14 property?

15 A No. Well, you know, I think somebody had a
16 friend that had a little brewery. It was like off
17 Cantrell Road in Little Rock. Maybe it has something
18 to do with that.

19 Q Does the name Bill Lyon ring any bell?

20 A Vaguely. Maybe that was the man I was
21 thinking of.

22 Q Do you recall any discussions at the bank

1 about the brewery?

2 A About the brewery? No, I wasn't aware of
3 that.

4 Q Do you recall any discussions at the bank
5 with regard to the sewer and water development that
6 was later known as Castle Sewer and Water?

7 A Nothing other than the fact that Jim Guy
8 Tucker bought it. That's pretty much it.

9 Q Do you recall being aware of an agreement
10 between Mr. Tucker and Mr. McDougal with regard to
11 how many hookups the utility would have at the
12 development?

13 A I'm aware of that now, but I don't know if
14 I learned that from reading the papers or while I was
15 there.

16 Q What is your understanding of that now?

17 A I think McDougal guaranteed him X number of
18 connections that would provide a certain amount of
19 revenue that would help, I guess, pay off the debt
20 when Tucker bought it.

21 Q Did you know anything about that at the
22 time?

1 A No.

2 Q Did you know or did you become aware of any
3 kind of legislation that regulated whether that
4 utility could service buildings or houses outside the
5 development?

6 A I don't recall anything like that. It
7 certainly could have happened.

8 Q Do you know whether the Rose Law Firm was
9 involved in providing counsel to Madison with regard
10 to any issues involving the utility or the sewer and
11 water development?

12 A I wouldn't have any reason to know that.

13 Q I think that another thing that you said
14 you were involved with is developing the --
15 renovating the Main Street property. I want to ask a
16 couple questions. If you could explain to me what
17 that was. I think you explained very vividly what
18 the area of town was like. If you could explain what
19 the actual project that you worked on was.

20 A Well, one project that I worked on was a
21 building up at the corner of -- that would probably
22 be about 10th or 11th Street and Main that was a

1 horrible apartment complex that McDougal purchased.
2 I worked with some architects for a long period of
3 time about plans to redo that into a pretty nice
4 office building, but it never happened.

5 Q Anything else come to mind?

6 A Well, I was just kind of aware of what was
7 going on, who owned what building up and down the
8 street, just trying to stay on top of it in case
9 there were any questions. I think I got a couple of
10 demolition permits from the city. Jim Guy Tucker may
11 have owned them. I don't know who owned them. But I
12 knew how to do that. I either was told to do it or
13 volunteered or something.

14 Q Were you involved in leasing any of the
15 space that Madison purchased down in that area?

16 A I don't think so.

17 Q Were you involved in leasing any space that
18 Madison owned?

19 A I don't think Madison owned any space that
20 they could lease out except what was in their own
21 little office building. I don't think they owned any
22 leasable space except their own building.

1 Q What about Madison Financial Corporation?

2 A I don't think they owned any leasable
3 space. You mean like another building located
4 somewhere?

5 Q Yes.

6 A The ADFA building? It is within Madison
7 Savings and Loan. It is not a building. It is an
8 office suite in the Madison building.

9 Q So they leased office space to ADFA. Did
10 you have any involvement in the ADFA lease?

11 A They were already in there and I may have
12 talked to them about renewing or expanding their
13 lease. I really don't remember. But like I say,
14 they were in the building, my recollection, when I
15 started.

16 Q Do you recall anything about the terms of
17 the lease?

18 A No. I think they complained it was too
19 expensive and the parking wasn't good and I think
20 they moved out.

21 Q Was that the extent of your knowledge?

22 A Yes, very limited.

1 MS. FISHER: If we could take a quick
2 break.

3 (Recess.)

4 BY MS. FISHER:

5 Q I know I asked you before, Mr. Fitzhugh, if
6 you had any dealings with the Arkansas Securities
7 Department, either Beverly Bassett-Schaffer or anyone
8 else with regard to the stock deal, and I want to ask
9 you the broader question now.

10 Did you have any dealings with the Arkansas
11 Securities Department or Mrs. Schaffer throughout
12 your tenure at Madison about anything dealing with
13 Madison?

14 A All I can say is none that I recall. If I
15 did, I just don't recall it at this time.

16 Q You said that you gave some statements
17 prior to Mr. McDougal's trial in 1989 and '90. Did
18 you testify at that trial?

19 A Yes.

20 Q What was the substance of your testimony?

21 A Well, I just kind of outlined how the Levi
22 Strauss building transpired from Madison to myself

90

1 back to Madison and what I knew about it. That was
2 pretty much it.

3 Q Did you testify about anything else?

4 A I may have, but I don't remember. I may
5 have testified about the revenue office building or
6 anything else they asked me, but I just don't
7 remember. Have you got a copy of my deposition --

8 Q No, I don't.

9 A -- or testimony?

10 Q No, I don't. That hasn't yet been produced
11 to the Committee. I can't refresh your recollection
12 with that. I apologize.

13 Other than investigators and testifying at
14 that trial, have you had any discussions with anyone
15 else about these matters?

16 A Other than the FBI?

17 Q Yes.

18 A No. I mean, Don Denton ran into me one
19 time and said something like have they contacted you
20 or something like that. That has been pretty much
21 it.

22 Q Were you ever contacted by anyone other

1 than Mr. Denton about your testimony regarding
2 Madison or your statements regarding Madison?

3 A What time frame are you talking about?

4 Q Any time -- let's take it from '92 --

5 A You mean like reporters?

6 Q Let's take it from 1992 to the present.

7 Have you been contacted about your involvement in

8 Madison other than reporters and investigators.

9 A No, I have never talked to any of the other
10 employees. I talked to the FBI so many times I can't
11 remember. That's it.

12 Q Other than the Levi Strauss building
13 transaction which we discussed today and the other
14 things which you testified about regarding your
15 employment at the bank, is there any other knowledge
16 you have which is relevant to the investigation into
17 the solvency and operations of Madison Guaranty?

18 A No.

19 MS. FISHER: Off the record.

20 (Discussion off the record.)

21 BY MS. FISHER:

22 Q During your time at Madison, did you have

92

1 any dealings with the governor's office, Governor
2 Clinton's office?

3 A No.

4 Q Did you work on any of Mr. Clinton's
5 campaigns?

6 A No.

7 Q Did you have any dealings with a woman by
8 the name of Betsy Wright?

9 A No.

10 Q Did you deal with anyone in the Governor's
11 office regarding the ADFA leases?

12 A I may have. I don't remember. I suspect
13 ADFA was another one of these jobs where they were
14 trying to find something for me to do and they said
15 go extend this or go lease them some more space or
16 something like that.

17 Q Did you know at the time you worked at
18 Madison that Mr. McDougal was a business partner of
19 Mr. and Mrs. Clinton?

20 A I don't know if I knew that back then or
21 not.

22 Q Did you hear any discussions of Whitewater

1 Development Corporation while you were at the bank?

2 A Again, I don't remember. If so, they were
3 just of no consequence. Certainly nobody down there
4 thought it was significant or a big deal or
5 impressive or anything that he was in a project with
6 the governor.

7 Q Did you know of any projects Mr. McDougal
8 was in with Governor Tucker?

9 A Well, I mean I knew Tucker owned some
10 property on Main Street and the thing out on 145th
11 Street. That's really all I can remember.

12 Q Did you know a gentleman by the name of
13 Chris Wade?

14 A Yes.

15 Q Did he have any business dealings at the
16 bank?

17 A He was involved in the Campobello thing.

18 Q Had you ever had occasion to meet with
19 Chris Wade or have any discussions with Mr. Wade?

20 A No.

21 Q Do you know what the extent of his
22 involvement at the Campobello project was?

1 A No. Well, of course -- he also worked on
2 the Whitewater thing. I think he was kind of a
3 salesperson. I think he worked on both projects.

4 Q Did you know of his involvement in
5 Whitewater at that time?

6 A I don't know.

7 Q Did he frequently visit the bank?

8 A Yes, because he would go down to see Larry
9 Kuca.

10 Q About how often would Mr. Wade come by the
11 bank?

12 A I don't know. Certainly often enough where
13 I remembered who he was and know what he looks like.

14 Q Did Mr. McDougal ever make statements at
15 the bank that he was carrying the Clintons on the
16 Whitewater deal?

17 A Not that I remember, no. No one talked
18 about it. It just wasn't a factor. It wasn't an
19 issue.

20 Q Do you have any knowledge of any money
21 going from Madison into Whitewater?

22 A No.

1 Q Have you ever have any discussions with
2 Mr. McDougal's attorney, Sam Heuer?

3 A No.

4 Q Have you had any discussions with a man
5 named James Blair?

6 A No.

7 Q Were you ever contacted with regard to
8 Madison during the 1992 presidential campaign?

9 A No. By who?

10 Q By anyone other than the press.

11 A No.

12 MS. FISHER: I think I am finished.

13 Mr. Bartolomucci will ask a few questions if you
14 don't mind.

15 MR. COLE: Off the record.

16 (Discussion off the record.)

17 EXAMINATION

18 BY MR. BARTOLOMUCCI:

19 Q Mr. Fitzhugh, are you aware of a fundraiser
20 held on April 4, 1985 at Madison Guaranty to benefit
21 Bill Clinton?

22 A Yes.

1 Q Do you know who organized the fundraiser?

2 A No, but I suspect it was McDougal.

3 Q Do you know what the precise purpose of the
4 fundraiser was?

5 A No.

6 Q But it was in your understanding to benefit
7 then-Governor Bill Clinton?

8 A Yes.

9 Q What do you know about how the fundraiser
10 came to be?

11 A Well, I think it occurred after I had been
12 there like less than a month or so. The first I even
13 knew about it was I believe the very day of, and I
14 was asked if I wanted to attend. I did not. That
15 was it.

16 Q Who asked you if you wanted to attend?

17 A Of course, this has been the subject of
18 many conversations. I believe it was John Latham,
19 but I am not positive.

20 Q What are these many conversations as to
21 which --

22 A I guess the FBI has asked me, the press has

1 asked me what exactly transpired, because I told
2 them -- I'm sure you are going to ask me the same
3 question -- were you asked to make a political
4 contribution, and I was, and I declined.

5 I have no recollection whatsoever what the
6 language was, but I remember having the impression
7 that if I had agreed to make a donation, that I don't
8 think it would have cost me anything. But I cannot
9 tell you why I have that impression. It just was not
10 a big deal to me.

11 Q Have you discussed the fundraiser with
12 anyone other than the press or reporters?

13 A Or the FBI. No.

14 Q Or the FBI, yes.

15 A No.

16 Q Was it John Latham who asked you to make
17 the contribution?

18 A I think so, but it has been so long I would
19 not want to say for 100 percent certain that it was.
20 I cannot say that.

21 Q It was your understanding from this
22 conversation that you would be reimbursed somehow?

1 A I think I got that impression. I have no
2 idea why I feel that way. Maybe I read something
3 into it that wasn't there and I don't know what
4 language was used or anything else. But I know from
5 reading the papers that apparently maybe that did
6 take place.

7 Q Do you have any firsthand knowledge of
8 reimbursements taking place for those who made
9 contributions at the fundraiser?

10 A No firsthand knowledge whatsoever.

11 Q What have you heard about the same topic,
12 other than what you read in the press?

13 A That's it, what I read in the newspaper.

14 Q Did I ask you whether you attended the
15 fundraiser?

16 A You didn't ask me, but no, I didn't go.

17 Q You didn't go. There is a Wall Street
18 Journal article of January 31, 1994 which says you
19 were approached by a senior Madison executive about
20 making a contribution. Is that a reference to
21 Latham?

22 A Exactly.

1 Q Can you recall anything at all about what
2 Latham or whoever this person was, what they said
3 that left you with this impression that you were
4 going to be reimbursed?

5 A They stuck their head in the door -- at
6 least that's my recollection -- kind of said hey, we
7 are having a fundraiser tonight, do you want to make
8 a contribution, do you want to come, and I wasn't
9 interested.

10 Q Nothing of that sort would really lead you
11 to conclude that you were going to be reimbursed.
12 Was there something else that was said?

13 A I have no idea why I got that impression.
14 As I told you, as I read in the paper, apparently
15 someone else had that impression as well. Then I
16 don't know what my basis was for it. But I guess it
17 was an accurate impression, because it apparently
18 happened. But I don't know what was said to me.

19 Q No one has told you that they were
20 reimbursed with respect to making a contribution?

21 A No. I thought I read in the paper that one
22 person said he was reimbursed.

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1 Q Is there anything else you know about the
2 fundraiser that you would like to share with us?

3 A No. I don't know anything other than what
4 I read in the paper.

5 Q You don't know how many people attended?

6 A No.

7 Q Or how much money was raised?

8 A No.

9 Q Do you have any association in your mind
10 between the fundraiser and lease contracts?

11 A No. People have hinted at that before, as
12 far as a result of that did Madison either get the
13 revenue office downtown or did ADFA extend their
14 lease or something like that. Nothing that I'm aware
15 of. If anything occurred, it was totally unbeknownst
16 to me.

17 Q Were there any other fundraisers held at
18 Madison?

19 A Well, there were several parties or things
20 like that down there. I went to one or two of them.
21 But I don't remember what they were for. Maybe they
22 were just parties. I don't know.

1 Q Do you remember any sort of political
2 fundraisers taking place other than this one?

3 A No.

4 Q Did you ever talk to Mr. McDougal about the
5 fundraiser?

6 A Not that I remember. No, I don't think
7 so.

8 Q Would you have any idea about who attended
9 the fundraiser?

10 A No. I wasn't there. I'm sorry.

11 MR. BARTOLOMUCCI: I think that's all I
12 have to ask about.

13 MR. COLE: Off the record one moment.

14 (Recess.)

15 EXAMINATION

16 BY MR. PORTNOY:

17 Q Good afternoon, sir. My name is Jim
18 Portnoy. I am counsel for the Minority. I have just
19 a few follow-up questions.

20 You testified earlier that in your
21 estimation, Mr. Latham was really the chief
22 administrative force at the bank?

1 A Yes.

2 Q He made the day-to-day administrative
3 decisions?

4 A That's my understanding, as far as running
5 a banking operation.

6 Q In your estimation, would that have
7 included the authority to retain counsel?

8 A It very well could have, certainly.

9 Q Do you know if he ever did retain counsel?

10 A No, but I know when I went to the Rose Law
11 Firm, on at least one occasion I went with Latham.
12 As a matter of fact, I think the first time when they
13 introduced me down there I went with Latham.

14 Q Did you consider him sort of the principal
15 liaison between the bank and the lawyers?

16 A Latham?

17 Q Yes.

18 A Yes, certainly more so than myself.

19 Q You mentioned a meeting at the Rose Law
20 Firm, and you met with Mr. Massey.

21 A Yes.

22 Q You weren't sure whether Mrs. Clinton was

1 there; is that correct?

2 A I just know there were more than three of
3 us there, the three being myself, Latham and Massey.
4 I don't remember who else was there. She may have
5 been there and she may not.

6 Q You considered Mr. Massey to be the
7 principal lawyer at the Rose Firm that you were
8 dealing with?

9 A Yes.

10 Q If you had to call the Rose Firm on a legal
11 matter, you called Mr. Massey?

12 A I don't have much recollection of anything
13 like that, but that is the only person I can sit down
14 right now and say I remember talking to at the Rose
15 Law Firm.

16 Q So, you don't have any specific
17 recollection of ever speaking to Mrs. Clinton about
18 bank business?

19 A No, nothing specific.

20 Q You were asked earlier about the IDC
21 purchase.

22 A Yes.

1 Q At the time of the purchase, did you refer
2 to that as IDC? How did you refer to the project at
3 the time that the purchase was contemplated?

4 A Well, I think I found out about it after
5 the fact. I mean, I believe it was already a done
6 deal before I knew anything about it. To me, it was
7 always the IDC project. It wasn't Castle Grande.

8 Q Castle Grande you testified didn't even
9 exist at the time of the purchase?

10 A I don't think it did. I may be wrong, but
11 I don't think it did.

12 Q And in your mind, it is quite clear that
13 IDC and Castle Grande were separate entities?

14 A It is clear in my mind.

15 Let me tell you this just to be fair about
16 the IDC. I knew about the IDC for years before I
17 worked at Madison because it was run by a family
18 friend who at the time I think was deceased when Seth
19 Ward bought it from him. I already knew what IDC
20 was.

21 Q In your mind, it was the IDC land parcel?

22 A Exactly, yes.

1 Q In fact, it included pieces of land that
2 were not contiguous?

3 A Exactly, yes.

4 Q It was just a basket of land owned by IDC?

5 A IDC, Industrial Development Corporation,
6 that's what their business was. 145th Street was an
7 industrial park, and 65th Street was an industrial
8 park. They may have owned land somewhere else.
9 Those are the only two I'm aware of.

10 Q You indicated you called Mr. Cuffman after
11 he assumed control of the bank to apprise him of the
12 Levi Strauss building situation?

13 A Yes, I did.

14 Q He had no knowledge of the transaction you
15 indicated?

16 A I'm certain, or I feel certain he knew I
17 owned the Levi Strauss building. I don't think he
18 understood the circumstances leading up to my
19 purchase or what the true nature of the loan was.

20 Q Would you describe him as surprised when he
21 learned?

22 A Extremely surprised and concerned.

1 Q Mr. Cuffman was a member of the board of
2 directors of the bank, was he not?

3 A I believe he was, yes, and a friend of John
4 Latham.

5 Q Were you surprised at his lack of
6 knowledge?

7 A Yes. To me that was indicative right there
8 of something wrong.

9 Q Did you come to learn that there were other
10 transactions that had occurred as to which few people
11 at the bank had knowledge?

12 A Only since I left Madison, yes.

13 Q But since you have left Madison, you have
14 come to learn that there were other transactions as
15 to which few people had knowledge?

16 A Transactions very similar to mine where you
17 were told you were going to own a building and the
18 package was basically put together and all you had to
19 do, I suppose, was sign.

20 Q Was it in your estimation Mr. McDougal's
21 style or common for Mr. McDougal to make arrangements
22 of this sort and to keep them close to the vest?

1 A Well, I guess -- I certainly feel that way
2 at this point. I mean, when I started feeling that
3 way, I'm not really sure. Like I said, he was kind
4 of the arranger and the deal maker and everyone else
5 was more or less like a detail person.

6 Q So, Mr. McDougal had a lot of balls in the
7 air at the same time?

8 A I think so, yes, yes.

9 Q And individual bank employees or individual
10 investors were perhaps apprised of some of the
11 details of their particular transactions but not of
12 general matters?

13 A We knew of our own but not others, that's
14 correct. I certainly had no idea, other than what
15 Larry Kuca -- that I mentioned, I knew he bought
16 something else. But I didn't know anything else.

17 Q In fact, there were a substantial number of
18 details about your own transaction that were not
19 brought to your attention; isn't that true?

20 A Yes, there were, a substantial number that
21 I didn't find out about until after the fact.

22 Q So, to your mind, it is perfectly

1 reasonable that somebody could be engaged in business
2 with Mr. McDougal and have no idea the full extent of
3 his business dealings even with respect to their own
4 project?

5 A That occurred in my case.

6 MR. PORTNOY: That's all I have, sir. I
7 thank you for joining us.

8 MS. FISHER: I have one more point of
9 clarification.

10 EXAMINATION

11 BY MS. FISHER:

12 Q I have a document that is BRP 00401. It is
13 an exhibit that was attached to a report by the name
14 of Borod & Huggins. Are you familiar with that?

15 A I have heard the name. They are out of
16 Memphis, aren't they?

17 Q They are. It seems to be a map of this
18 property. It is called "Property disposition,
19 Castle Grande feasibility study." Have you ever seen
20 this map?

21 A Probably.

22 Q Could you explain to me if you know, to the

1 extent you know, where everything is around here,
2 what this is. It is really hard to read for me. I
3 haven't been quite able to make heads or tails of
4 it.

5 A I suspect this number 1 is the Levi Strauss
6 building. This is 145th Street right here. It is
7 not an interstate. It is the road to Pine Bluff.

8 MR. COLE: 65 South.

9 THE WITNESS: This is 145th Street. All
10 this in here came to be known as Castle Grande.

11 BY MS. FISHER:

12 Q All this in here or up here?

13 A This to me was Castle Grande and this was
14 not.

15 Q Everything below 145th Street, which was
16 the 400 acres that Madison Financial bought; right?

17 A Yes.

18 Q That's what you consider is known as Castle
19 Grande?

20 A That's what I did.

21 Q I guess the confusion that I have is these
22 properties up here, 1 being the Levi Strauss

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1 building, and then this number 3 I believe is the
2 tract that was sold to former Senator Fulbright,
3 according to the report at least, and it is all on
4 this document called "The Castle Grande feasibility
5 study."

6 It talks about all the different land that
7 is sold and internal bank documents as well. They
8 call this all Castle Grande.

9 Are you aware that at least some people in
10 the bank considered the entire project, or is it your
11 understanding that it is the 400 acres where the
12 trailer park is?

13 A That's how I thought of it.

14 Q Is the trailer park in one section or just
15 this whole portion down here south of 145th Street?

16 A I don't think it ever got developed because
17 all that ever happened is there were a bunch of
18 trailers -- not trailers -- there was manufactured
19 housing along this street in here with some open
20 streets that were cut in.

21 I haven't been out there in so long so I
22 don't know. They were intended to go back in here

1 and I guess kind of loop together. You have a flood
2 way in here. So there was a limited area. They
3 could never develop in here anyway.

4 Q Because of the flood.

5 A Yes. I think one of these was Master
6 Developers.

7 Q Do you know where the utility was on this
8 map, the sewer and water project?

9 A No, I don't.

10 MS. FISHER: I appreciate your help. I
11 appreciate your help as well, Lance. Now I know
12 where I-65 is.

13 MR. COLE: It is not an interstate. I'm
14 always happy to help out.

15 EXAMINATION

16 BY MR. BARTOLOMUCCI:

17 Q In this Wall Street Journal article, it
18 quotes you as saying "I was left with the distinct
19 impression that I would be reimbursed. It wasn't
20 something I wanted to get involved in."

21 First of all, is that an accurate
22 statement?

1 A I wouldn't have gone to that thing under
2 any circumstances, I mean, had they not offered to
3 reimburse me or had they walked in with money in
4 their hands.

5 I already had plans that night, something I
6 was going to do. Nothing they said really made any
7 difference to me. It is certainly not something I
8 would want to get involved in with someone giving you
9 money or saying whatever is going to take place. I
10 just wasn't interested.

11 MR. BARTOLOMUCCI: Thanks.

12 EXAMINATION

13 BY MR. PORTNOY:

14 Q One quick follow-up. Did you ever discuss
15 the fundraiser in any way with Mr. or Mrs. Clinton?

16 A No.

17 Q To your knowledge, would they have any
18 reason to know that you believed you might be
19 reimbursed for the contribution?

20 A Certainly not from my standpoint, no.

21 Q To your knowledge, would they have any
22 reason to know that anybody was being reimbursed or

1 thought they might be reimbursed for a contribution?

2 MS. FISHER: That calls for total

3 speculation.

4 MR. PORTNOY: To his knowledge.

5 THE WITNESS: My answer is no.

6 (Whereupon, at 3:25 p.m., the deposition

7 was concluded.)

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9

DAVIS FITZHUGH

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey
Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

**DEPOSITION OF WILLIAM H. KENNEDY, III
IN RE: S. RES. 120**

MONDAY, JANUARY 15, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM H. KENNEDY, III, called for examination pursuant to notice of deposition, at 10:10 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

PAUL V. CASTELLITTO, Esq.
Sharp & Lankford
1785 Massachusetts Avenue, NW
Washington, DC 20036

ALDEN L. ATKINS, Esq.
Vinson & Elkins
The Willard Office Building
1455 Pennsylvania Avenue, NW
Washington, DC 20004
On behalf of the Deponent.

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WITNESS	EXAMINATION
William H. Kennedy, III	
DEPOSITION NUMBER	IDENTIFIED
Kennedy Exhibit 1	153, 1073

1 PROCEEDINGS

2 Whereupon,

3 WILLIAM H. KENNEDY, III

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. GIUFFRA:

8 Q Mr. Kennedy, my name is Robert Giuffra. I
9 am the chief counsel of the Senate Banking
10 Committee. To my left is Neal Kravitz, who is the
11 principal Democratic deputy special counsel. This is
12 a deposition being conducted pursuant to Senate
13 Resolution 120. This resolution establishes a
14 special committee administered by the Banking
15 Committee to conduct an investigation involving
16 Whitewater Development Corporation and related
17 matters.

18 You have previously been deposed. Do you
19 need me to go through the preamble one more time?

20 A No.

21 MR. GIUFFRA: If your counsel would note
22 appearances for record.

1 MR. CASTELLITTO: Paul Castellitto.

2 MR. ATKINS: Alden Atkins.

3 MR. GIUFFRA: You are appearing in his
4 personal capacity, Mr. Castellitto?

5 MR. CASTELLITTO: Correct.

6 MR. ATKINS: I am appearing as Mr.
7 Kennedy's attorney as it relates to Rose Law Firm
8 issues and his employment at the Rose Law Firm.

9 MR. GIUFFRA: Understood.

10 BY MR. GIUFFRA:

11 Q Mr. Kennedy, do you have any questions
12 before we begin?

13 A Why am I here? No, I don't have any
14 questions.

15 Q I would like to begin by showing you some
16 documents, that we have recently obtained from the
17 White House. These documents bear Bates numbers
18 12595 through 98. We have not had a chance to copy
19 these documents because they are highly confidential
20 and we just got them yesterday. The clerk, because
21 of the holiday, is not here. Maybe the best thing
22 for me to do is to just hand these to you and share

1 yours. Let me begin, do you know why the documents
2 were turned over to committee on January 14, 1996?

3 A No.

4 Q Do you know why they were not turned over
5 to the committee earlier?

6 A No.

7 Q Have you discussed these documents with
8 anyone other than your counsel?

9 A No.

10 Q When did you learn of the discovery of
11 these documents?

12 A Last night.

13 Q Okay. Let's just go through the first
14 document which bears Bates number 12595. Across the
15 top it says "1992 audit" and then there appears to be
16 sort of a star underneath that and then some writing
17 and then another star. Was there writing above and
18 below the writing that's here?

19 A Yes.

20 Q So this has been redacted?

21 A Yes.

22 Q Do you know when you would have prepared

1 this document?

2 A I would assume somewhere around November of
3 1993 based on the date that's on 12596.

4 Q Do you know anything -- do you recall
5 anything about the circumstances under which this
6 document was prepared?

7 A Yes. These are notes of a meeting, to work
8 on the President's 1992 tax return and 1993 tax
9 return.

10 Q And who attended that meeting?

11 A Bob Jones, David Kendall, Mike Berman, Bob
12 Barnett, Beth Nolan and Steve Neuwirth and me.

13 Q So the note -- the notes bearing Bates
14 number 12595 relate to the meeting that was held on
15 November 4, 1993?

16 A I believe so. It is very difficult for me
17 to tell from the way they are presented here, but I
18 believe that's the case.

19 Q Who is Bob Jones?

20 A He's an outside accountant hired to assist
21 the Clintons in the presentation of their tax return.

22 Q And who is Mike Berman?

1 A I don't quite know how to -- he is a --
2 political consultant person.

3 Q Is he an attorney, as far as you know?

4 A I do not know. I believe so, but I don't
5 know for a fact, Mr. Giuffra.

6 Q And Mr. Barnett is a lawyer at the Williams
7 & Connolly law firm?

8 A Yes.

9 Q Beth Nolan was an associate White House
10 counsel?

11 A Yes.

12 Q And Steve Neuwirth was an associate White
13 House counsel?

14 A Yes.

15 Q Was this the first meeting you attended
16 with Mr. Kendall?

17 A I'm not sure. I think I may have had lunch
18 with him, prior to this meeting. But I am not sure
19 whether that lunch occurred before or after.

20 Q Do you recall who else might have attended
21 the luncheon you attended with Mr. Kendall?

22 A Just me and David.

1 Q Do you recall where the lunch was held?

2 A Probably, and this is a guess because I
3 don't recall specifically, but it was either in the
4 Old Ebbitt Grill or the Hotel Washington, one of the
5 two. I'm sorry, I just don't remember which one it
6 was over by the Treasury.

7 Q Your best estimate the lunch occurred
8 sometime around November 4, 1993?

9 A No, I think it was before November the 4th,
10 I think that was the first meeting. Don't hold me to
11 that. I can't recall whether it was before or after.

12 Q What was discussed in the lunch with
13 Mr. Kendall?

14 A Purely social, sort of get acquainted type
15 meeting.

16 Q Were you instructed by anyone to have lunch
17 with Mr. Kendall?

18 A No, sir.

19 Q When did you first learn that the Clintons
20 had retained Mr. Kendall to be counsel to them with
21 regard to Whitewater matters?

22 A To tell you the truth, I am not sure

1 exactly when I knew that.

2 Q Do you recall who advised you that
3 Mr. Kendall has been retained to be the Clintons'
4 lawyer with regard to Whitewater matters?

5 A Not specifically, no. Probably Bernie, but
6 I don't recall specifically.

7 Q At this meeting on November 4, 1993, as you
8 just testified, there was discussion as to how to
9 treat, on the President's 1992 tax return, his sale
10 of Whitewater shares to Mr. McDougal; is that
11 correct?

12 A Well, I think a better way to say it is
13 this: I don't remember when his 1992 income tax
14 return was actually filed. But the President's tax
15 returns are audited as a matter of course every
16 year.

17 Q By the IRS?

18 A Yes. And this meeting, was to, I believe,
19 discuss the tax treatment of the Whitewater sale on
20 the President's 1992 tax return, among a whole lot of
21 other things. This was a very minor part of it.

22 Q The purpose of the meeting was to generally

10

1 discuss possible issues that might come up in an
2 audit of the President's 1992 tax returns?

3 A And to start getting ready for the
4 preparation of the 1993 tax return, and to, as part
5 of that, Mr. Jones was sort of new to the scene, to
6 get him familiar with issues is the way he put it.

7 Q Were you aware Mr. Foster had been involved
8 in certain issues with regard to the tax treatment of
9 the Clintons' sale of the Whitewater investment?

10 A Not contemporaneously, but through press
11 reports, yes.

12 Q So you learned after this meeting of
13 November 4, 1993, that he was involved --

14 A Well, no, I think that had been reported in
15 the press prior to this meeting, Bob, and I think I
16 knew it from those press reports beforehand.

17 Q But you and Mr. Foster never discussed the
18 tax treatment of the Clintons' sale of their
19 Whitewater shares?

20 A No.

21 Q Just so I can understand what it says,
22 12595 across the top, says, is that "agreement to

1 discuss reporting of income from Whitewater"?

2 A Which one are you on?

3 Q 12595, this one right here.

4 A Okay, no, it says "agent to discuss
5 reporting of income from Whitewater," not
6 "agreement," "agent to discuss reporting of income
7 from Whitewater."

8 MR. KRAVITZ: Mr. Kennedy, do you think
9 that these two pages of notes are actually Bates
10 stamped backwards?

11 THE WITNESS: Actually, I do, but I don't
12 know who did it and I can only speculate, but I
13 believe it goes like this.

14 BY MR. GIUFFRA:

15 Q You think 12596 is the first page and 12595
16 is the second page?

17 A Yes.

18 MR. KRAVITZ: Because 96 has the list of
19 people.

20 THE WITNESS: Yes.

21 BY MR. GIUFFRA:

22 Q What does the notation "agent to discuss

1 reporting of income from Whitewater" mean to you, as
2 you sit here today?

3 A If you turn to what is -- what is it, Bates
4 or date?

5 Q Bates.

6 A If you turn to 12596, you will see on the
7 page, it says, "House sales proceeds," and then
8 you've got a star where it says A and B and then it
9 says "\$1000, Whitewater." Mr. Jones had previously
10 been advised by the agent to conduct the audit that
11 the agent wanted to discuss the tax treatment of the
12 Whitewater shares, sale of the Whitewater shares.

13 Q Did Mr. Jones indicate the name of the
14 agent?

15 A No, I don't think so.

16 Q Do you know the name of the agent who was
17 conducting the audit?

18 A No, I do not.

19 Q Do you know when the agent conducted the
20 audit?

21 A Precisely, no. It was -- I believe it was
22 relatively close to this meeting date, but I don't

1 know when.

2 Q And so Mr. Jones had been in communication
3 with the IRS agent who was conducting the audit of
4 the President and Mrs. Clinton's tax returns?

5 A I believe so.

6 Q Do you recall anything else that
7 Mr. Jones -- strike that.

8 The reference on page 12596 where it says
9 "House sales proceeds" and then it has the
10 information redacted, does the redacted material have
11 anything to do with Whitewater Development
12 Corporation?

13 A To give you the best answer, I have to see
14 this again, but I will tell that you my recollection
15 is absolutely not. It dealt with other tax issues,
16 but, you know, it's been two years since I took these
17 notes. And I'm just telling you -- my memory is, but
18 I would have to -- to know for sure I would have to
19 look and see.

20 Q Do you recall the agent -- strike that.

21 What do you recall Mr. Jones advising you,
22 and the other persons at the meeting, with regard to

14

1 what the agent had said about the audits he was
2 conducting of the President and Mrs. Clinton's tax
3 returns as it relates to Whitewater Development?

4 A Bob, I don't remember specifics. I think
5 that they were looking for, and this is again not
6 recalling specifics, but on a general basis they were
7 looking for justification for, I believe it was
8 reported in the press that the entire \$1000 had been
9 taken as gain, so they were looking for some sort of
10 an understanding of the -- that whole tax treatment,
11 and that would include an analysis of whether zero
12 basis in the shares was correct. Something like
13 that.

14 Q As far as you know, had the issue of
15 whether the appropriate tax treatment had been taken
16 with regard to the sale of the Clintons' interest in
17 Whitewater been an issue that was reported in the
18 press as of November 4, 1993?

19 A I believe it had been. I can't tell you
20 specifics, but I believe it had been. I can't
21 remember when the 1992 return was filed. I don't
22 think it was filed, like, on April, I think it was

1 after that, but I can't remember what date it was.

2 Q Now to the right it says "could be" -- this
3 is on 112596 -- "could be done with him" or
4 "discussed with him"?

5 A It is "done." The word is "could be done
6 with him."

7 Q What does that reference indicate to you?

8 A I believe that A, B and C were "material
9 issues," material that had been raised by the agent
10 to Mr. Jones as things he wanted to talk about. And
11 if memory serves me correctly, what Mr. Jones is
12 saying here is that if we can deal with these issues,
13 then we will get through the audit pretty quickly.

14 Q Where it says, on page 112596 underneath,
15 "report Bob Jones audit formal request fax," what
16 does that indicate to you?

17 A There must have been some correspondence, I
18 guess, regarding the audit.

19 Q Correspondence with the IRS?

20 A I believe so. Whether it is to the IRS or
21 from the IRS, I don't know. It could have been
22 Mr. Jones was requesting a meeting, or that the agent

1 was requesting a meeting. I just don't know.

2 Q Do you know what firm Mr. Jones works at?

3 A If you gave me a phone book I could
4 probably come up with it, but I can't remember off
5 the top of my head, no, I'm sorry.

6 Q Is it a major accounting firm?

7 A I am not -- no, it is not one of the Big
8 8. It is a D.C. accounting firm. Big 6, I'm sorry.

9 MR. CASTELLITTO: Did you say "D.C." or
10 "decent"?

11 THE WITNESS: I presume it was decent. It
12 was a D.C. based accounting firm. It is not a name
13 that you --

14 BY MR. GIUFFRA:

15 Q If we could turn to 12595.

16 It says -- we have already discussed the
17 first entry, "zero basis arrow sale of Whitewater
18 shares not have reported enough income arrow no
19 problem"; is that correct?

20 A Yes. You are reading it right.

21 Q What does that indicate to you?

22 A Again, I can't remember the actual

1 specifics of the conversation, but there may have
 2 been an issue, again, around the actual basis
 3 reported. In other words, if you get a thousand
 4 dollars, you pay tax on a thousand dollars, you
 5 basically say you have zero basis in the shares.

6 Maybe I should turn this way. And there
 7 was a discussion of that and question about how they
 8 could have gotten to a zero basis, for example, and
 9 maybe not reported enough income to offset losses
 10 which could, on a capital basis could give you zero
 11 basis, something like that, Bob. The discussion was,
 12 you know, how could they report a zero basis, went
 13 through sort of an analysis of that and concluded
 14 that whatever had been done, and I don't know the
 15 specifics of that, was enough to come up with a no
 16 problem on that.

17 Q Do you know why the zero basis was
 18 reported?

19 A No.

20 Q Do you know, again, what the reference to
 21 "not have reported enough income" means?

22 A Again, it in some way ties into the

1 discussion of basis in the stock in some way, and I
 2 can't put much content in it for you. I don't know.

3 Q The notion that the thousand dollars that
 4 was reported as the sale price -- strike that.

5 Was there discussion of the fact that the
 6 Clintons should have reported a negative basis in
 7 their Whitewater shares?

8 A No. What I recall is that -- I mean,
 9 you've got Mr. Jones who didn't -- wasn't on the
 10 scene when the accounting treatment of the Whitewater
 11 share of sales had been come up with. And he is
 12 trying to see what he can come up with to say to the
 13 agent about basis, can't do it much better than that.

14 Q And do you recall any further discussion
 15 about why zero basis was containing chosen?

16 A No.

17 Q The question of "not have reported enough
 18 income," again, what does that relate to?

19 A Again, the issue of basis, and reporting
 20 the entire sales price as gain and paying taxes on
 21 it. I cannot put, although I would greatly love to,
 22 much more content in it than that. There was a

1 discussion about, you know, could the zero basis be
2 supported, conclusion reached it could be.

3 Q The discussion of reporting income from
4 Whitewater, is that income from Whitewater over a
5 period of time prior to 1992?

6 A No, Bob, it would be -- again, it would be
7 in the context of arriving at a basis for the
8 shares. And, you know, that's -- if you recall in
9 your own experience that's normally at a point in
10 time.

11 MR. ATKINS: Just so the record is clear,
12 Mr. Kennedy, by reporting a zero basis, did that
13 maximize the taxes that the Clintons paid on the
14 thousand dollars sale price?

15 THE WITNESS: Yes. It did.

16 BY MR. GIUFFRA:

17 Q But you recall no discussion of the
18 consequences of the Clintons reporting a negative
19 basis?

20 A No. I mean, we are dealing with historical
21 fact at this point. In other words, we are dealing
22 with what had already been done.

1 Q Do you recall any discussion during this
2 meeting of the Lyons report?

3 A No, I do not.

4 Q Do you recall any fact that the Lyons
5 report indicated that the Clintons had lost money on
6 their Whitewater investment?

7 A I believe it did indicate that.

8 Q And wouldn't the fact that the Clintons
9 lost money on the Whitewater over time have affected
10 the basis of the stock?

11 A It could have reduced it to zero, right.

12 Q Let's look to the notes bearing Bates
13 numbers 12597 and 98. What do you recall about the
14 preparation of these notes?

15 A These are notes of a daily staff meeting
16 that the White House counsel's office had.

17 Q If you could just list the names of the
18 persons who attended this daily staff meeting at the
19 White House counsel's office.

20 A That would be Cheryl Mills, Victoria Radd,
21 "Nuss" is Bernard Nussbaum, "Eggleston" is Neil
22 Eggleston, "Klein" is Joel Klein, "Sloan" is Cliff

1 Sloan. "Waldman," I believe, I think his first name
2 is Dave.

3 Q Was he in the White House counsel's office?

4 A No, he was not.

5 Q What was his position at that point?

6 A I think he was with the communications
7 department in the White House, press office in short
8 hand. And then "Kennedy" is me, and "Nolan" is Beth
9 Nolan.

10 Q Across the top of this, "James Carville and
11 Paul Begala."

12 A Right.

13 Q Did they attend the meeting?

14 A No.

15 Q Do you have any recollection as to why
16 their names were listed at the top of the notes?

17 A I think that they were -- overview of these
18 notes is that discussion was -- let me see if I can
19 formulate this.

20 The counsel's office is talking about a
21 methodology to respond from the White House's
22 perspective to Whitewater matters. And Carville and

22

1 Begala are political consultants. And in some form
2 or fashion they may have been suggesting that the
3 White House get a definitive methodology or whatnot,
4 but they were not present at this meeting. And I
5 can't say much more than that. In some form or
6 fashion they were connected with, we got to get our
7 act together in terms of coming up with responses.

8 Q Let's go through the notes. The first
9 entry is "Nussbaum to brief Congressman."

10 A "Nuss to brief Congressmen," I believe it
11 is. Then the next entry is "chronology of events:
12 Neal Eggleston." And then underneath that it says
13 "documentary record Kendall, principals" with an a,
14 "Bruce Lindsey," WHK 3 is me.

15 Q What does this reference indicate to you?

16 A I believe Neil Eggleston was asked to work
17 on a chronology of events.

18 Q These would be events relating to
19 Whitewater?

20 A Yes, and, you know, his sources for that
21 would be the documentary record, David Kendall. The
22 principals would be the President and the First Lady,

1 Bruce Lindsey and me.

2 Q What was the purpose of this chronology?

3 A To provide an information base so we, in
4 this case being the White House, could adequately
5 respond to Whitewater matters as they came up.

6 Q Did Mr. Eggleston subsequently prepare such
7 a chronology?

8 A I don't know.

9 Q Was it your understanding Mr. Eggleston was
10 to work to some extent with Mr. Kendall in preparing
11 this chronology?

12 A The notes indicate that, yes.

13 Q The next entry is "each day White House
14 clips go through clips and come up with answers?"

15 A It says "inaccurate statements in the clips
16 address" and then it says "new things," then it says
17 "go back with regard to stuff been written."

18 Q Okay, then below that?

19 A It says "produced" and "how to use?"

20 Q Do you know what that refers to?

21 A Again, I am talking about -- what it refers
22 to would be the chronology and the responses. Okay.

24

1 It says "produced" and "how to use?" Underneath that
2 it says "designated White House spokesmen
3 Stephanopoulos, Lindsey, Nussbaum."

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q The next entry looks like "3, special
7 assignments," then I can't read the next --

8 A "Special assignments with regard to certain
9 issues."

10 Q What is the word to the right where it
11 says --

12 A "Certain."

13 Q "Certain issues." What do you recall about
14 discussions of special assignments with regard to
15 special issues?

16 A Well, if issues came up that required a
17 more in-depth treatment or development of more
18 background or something that people might get
19 assigned to deal with those, as on most, to more of a
20 sort of general response.

21 Q The next entry of this is on page 12598.
22 It says "Kendall."

1 A "Kendall potential public presentation,
2 possible assistance from White House counsel, partial
3 release of documents, WBC." I think that's Williams
4 & Connolly.

5 Q What does that entry indicate to you?

6 A As part of a potential public presentation,
7 there might be a partial release of documents.

8 Q What about possible assistance from White
9 House counsel?

10 A That the White House counsel would, as part
11 of its response, maybe participate in such a public
12 presentation. I don't know beyond that.

13 Q Was there any discussion, at this meeting,
14 of the White House counsel's office providing
15 assistance to Mr. Kendall with regard to his
16 representation of the President and Mrs. Clinton.

17 A No, we would be more in line of -- it would
18 be more in line of us doing our jobs. All of this is
19 about, as I testified earlier, the White House
20 getting its act together with regard to responding to
21 Whitewater matters as they came up. And in the
22 context of us doing our jobs, we might participate in

1 this public presentation.

2 Q But do you recall any discussion, at this
3 meeting, of the White House providing assistance to
4 Mr. Kendall in connection with his representation of
5 the Clintons?

6 A No, I mean -- I don't quite understand what
7 the question means. I mean, we were going to
8 cooperate. Does that mean assistance?

9 Q Was there any discussion of the White House
10 counsel's office assisting Mr. Kendall, for example,
11 with regard to fact gathering?

12 A No. I don't recall that. No, sir.

13 Q Was there any discussion of the White House
14 counsel's office providing assistance to Mr. Kendall
15 with regard to legal resource?

16 A No, I don't recall that. No, sir.

17 Q Was there any discussion of the White House
18 counsel's office attempting to obtain information
19 from government agencies that could be provided to
20 Mr. Kendall?

21 A Absolutely not.

22 (Mr. Ben-Veniste and Mr. Cole entered the

1 deposition.)

2 MR. BEN-VENISTE: Off the record.

3 (Discussion off the record.)

4 BY MR. GIUFFRA:

5 Q Mr. Kennedy, what I would like to do is
6 start with the date of March 4, 1994, and then just
7 have you look backward.

8 Between -- strike that.

9 Between October 1, 1993 and March 4, 1994,
10 did you attend any meetings with David Kendall of
11 Williams & Connolly?

12 A The dates are October 1st?

13 Q Yes.

14 A And March 4?

15 Q Yes, 1994.

16 A Did I attend any meetings with David
17 Kendall?

18 Q Correct.

19 A Well, I had lunch with him somewhere in
20 that time frame. And then I attended a meeting on
21 November the 5th at his offices.

22 Q Did you attend any other meetings with

1 Mr. Kendall?

2 A No. I am sure I bumped into him once or
3 twice in the White House, but I never attended any
4 other meetings.

5 MR. KRAVITZ: Weren't there notes from
6 November 4 also?

7 THE WITNESS: That's right. These here,
8 the November 5th meeting and these here.

9 MR. KRAVITZ: November 4.

10 BY MR. GIUFFRA:

11 Q The November 4 meeting, November 5 meeting
12 and then your lunch would be the meetings you can
13 recall with Mr. Kendall --

14 A Yes, sorry.

15 Q -- in that period I gave you of October 1,
16 1993 through March 4, 1994?

17 A Right.

18 Q Did you have any meetings with Mr. Kendall
19 after March 4, 1994?

20 A I have seen David Kendall at the Rose Law
21 Firm in 1995, but would not constitute that contact
22 as a meeting. No, the answer is no.

1 Q Between October 1, 1993 and March 4,
2 1995 -- strike that -- March 4, 1994, did you have
3 any telephone conversations with Mr. Kendall?

4 A Yes.

5 Q Do you recall approximately how many
6 telephone sales you will have had with Mr. Kendall?

7 A Just one.

8 Q And when was that telephone conversation?

9 A Probably sometime in the middle of
10 November, middle to late November.

11 MR. KRAVITZ: Of which year.

12 THE WITNESS: 1993.

13 BY MR. GIUFFRA:

14 Q And what was the substance of your
15 telephone call with Mr. Kendall in mid-to-late 1993?

16 A Well, he called me and he asked me -- he
17 told me he had some records that he needed to return
18 to the Rose Law Firm and wanted to know how I thought
19 that should be done.

20 Q What did Mr. Kendall say about these
21 records?

22 A Basically that he had some that he needed

1 returned to the Rose Law Firm.

2 Q Did he describe the records to you in any
3 way?

4 A He did not. I did ask him if there was any
5 sensitivity connected with them and he said yes,
6 there was.

7 Q And what did you advise Mr. Kendall to do
8 with regard to returning these --

9 A I told him he should either mail them or
10 deliver them either to Ron Clark, the managing
11 partner, or to Jerry Jones who is one of the
12 litigation partners.

13 Q Did Mr. Kendall indicate to you that these
14 records came from the files of Vincent Foster?

15 A We did not discuss the source of them at
16 all.

17 Q Have you ever discussed these documents
18 with anyone since that conversation you had with
19 Mr. Kendall in mid-to-late 1993, other than your
20 counsel?

21 A The -- I know that, and I learned
22 subsequently, a long time after, that what they were

1 Madison files. I did not know that
2 contemporaneously. I have never discussed with
3 anyone, you know, what they were, which files,
4 whatever. But I do know that they are -- that they
5 were Madison related files.

6 Q You never discussed the chain of custody of
7 these documents with anyone that you can recall?

8 A No, sir.

9 Q You never discussed it with Webster
10 Hubbell, for example?

11 A No, sir.

12 Q Mr. Kennedy, so far as you know, between
13 October 1, 1993 and March 4, 1994, did Mr. Kendall
14 attend any meetings with anyone else at the White
15 House?

16 A He must have, but I, of my own independent
17 knowledge, I cannot tell you whether he did or not.

18 Q You don't know whether Mr. Kendall, for
19 example, met with Bruce Lindsey during this period?

20 A I do not.

21 Q You don't know whether Mr. Kendall met with
22 Mr. Nussbaum during this period?

32

1 A Common sense tells me, Bob, that he did.
2 Probably many times during the time frame that you
3 outline, but I didn't attend any such meetings.

4 Q No one discussed with you the fact that
5 they had attended a meeting with Mr. Kendall.

6 I would like to show you a document. The
7 White House provided the committee with an
8 opportunity to review a New York Times editorial that
9 the President had written a notation on. And then
10 what I've done is I just transcribed what the
11 President wrote on the editorial. This editorial is
12 dated December 20, 1993. My question to you is
13 whether you have ever seen this editorial with the
14 President's handwriting on it?

15 A No, I have never seen it. I thought my
16 handwriting was bad. "This is important to be on top
17 of, Bassett did a good job in," something, "cump."

18 Q "Camp"?

19 A "Camp."

20 Q "On this"?

21 A "On this." I have never seen this before.

22 MR. KRAVITZ: Just for the record, that's

1 Bob's handwriting.

2 THE WITNESS: I am reading Bob's
3 handwriting.

4 MR. GIUFFRA: But you will agree this was
5 what was on the document that we saw that was given
6 to us from the White House.

7 MR. KRAVITZ: I will agree that that may be
8 it. I remember there was some dispute as to whether
9 we could read one or two words in it, but that's
10 certainly close, if not exactly what it was.

11 BY MR. GIUFFRA:

12 Q Have you ever discussed Beverly
13 Bassett-Schaffer with the President?

14 A No.

15 Q Did you attend a University of Arkansas
16 basketball game on December 28, 1993?

17 A Where?

18 Q In Arkansas?

19 A December 28, 1993.

20 MR. KRAVITZ: Who was it against? It might
21 help him remember.

22 BY MR. GIUFFRA:

1 Q The President -- maybe to help you
2 remember, the President attended this game.

3 A No, I don't -- I did not attend that game.

4 Q Do you know whether Mr. Lindsey spoke with
5 Ms. Schaffer and her husband Archie Schaffer at this
6 basketball game about Whitewater related matters?

7 A No.

8 Q You don't know if the President spoke to
9 Ms. Schaffer or Archie Schaffer about Whitewater
10 related matters at this game?

11 A No.

12 Q You know Jim Blair; am I correct?

13 A Yes.

14 Q Have you ever discussed Jim McDougal with
15 Jim Blair?

16 A No.

17 Q Do you have any understanding as to whether
18 Mr. Blair has ever acted as an agent on behalf of
19 either the Clintons or the White House with regard to
20 Mr. McDougal?

21 A As you know, there was discussion at the
22 meeting on November the 5th about Blair's

1 activities. There have subsequently been press
2 reports. Now whether you can recognize him as an
3 agent or not, that's for someone other than me. I
4 have not discussed it. And I don't know what his
5 capacity was.

6 Q I would like to show you another document.
7 The White House gave us an opportunity to look at
8 this document, and then we transcribed what was
9 written on the document. This is a chronology. It
10 says DEK, 11/10/1993. It has a fax transmission
11 notation across the left hand margin, November 10,
12 1993, Wednesday, 10/27.

13 A I don't believe I have ever seen this,
14 Mr. Giuffra, Bob.

15 Q Thank you, sir.

16 A You bet.

17 Q Have you ever reviewed any chronologies
18 that were prepared by Williams & Connolly with regard
19 to Whitewater matter?

20 A I don't believe so.

21 Q I would like to show you a document which
22 bears Bates numbers CGE 12286 through 12294. It is a

36

1 memorandum written by David Watkins, "subject:
2 Response to internal White House travel office
3 management review."

4 A And your question is?

5 Q Have you ever seen this memorandum before?

6 A No. There have been press reports about it
7 and I believe portions of it have been extracted in
8 the press, but I have never seen the actual memo
9 before.

10 Q Were you aware that Mr. Foster maintained
11 certain documents in his office relating to what is
12 now known as Travelgate?

13 MR. CASTELLITTO: Object.

14 MR. GIUFFRA: I will rephrase the question.

15 BY MR. GIUFFRA:

16 Q All right.

17 I apologize. Were you aware that
18 Mr. Foster maintained certain documents in his office
19 relating to the White House travel office?

20 A Where specifically, no. Would I have been
21 surprised? Absolutely not.

22 Q Mr. Foster was involved in monitoring the

1 White House travel office in the early part of 1993?

2 A Did he have involvement in situations
3 around the travel office? The answer is yes.
4 Monitoring it, I don't know if I would quite use
5 that.

6 Q What was his role with regard to the travel
7 office during 1993?

8 A You know, we are talking about -- when you
9 say "monitoring," what does that mean? I mean, did
10 he have oversight over it? Absolutely not. And,
11 Bob, I am not trying to split hairs with you. But
12 the -- I mean, the short answer to the question is he
13 was acting in his role as White House counsel with
14 regard to the travel office, deputy White House
15 counsel.

16 Q Were you involved with regard to the travel
17 office during the first half of 1993?

18 MR. KRAVITZ: Objection. How does that
19 come within our resolution? It is one thing if you
20 want to talk about Mr. Foster and the possibility
21 that documents were in there, and that was relevant
22 to whatever happened following his death, but I don't

1 think it has anything to do with Mr. Kennedy's
2 involvement in the travel office.

3 MR. GIUFFRA: The relevance is, I am going
4 to ask a few questions -- and Mr. Kennedy was also
5 involved in the travel office. He would have
6 knowledge as to what was in Mr. Foster's office,
7 perhaps.

8 MR. KRAVITZ: Why don't you ask him that
9 question and work backwards rather than asking things
10 that are outside our resolution through a back door.

11 THE WITNESS: What is the question?

12 BY MR. GIUFFRA:

13 Q Did you have any involvement with regard to
14 the travel office prior to Mr. Foster's death?

15 MR. CASTELLITTO: The answer to that would
16 take hours. I have to agree with Neal. I think it
17 is outside the resolution. If it is tied in with
18 Vince, I have no problem.

19 THE WITNESS: What's the procedure here?
20 We've got an objection, do I answer?

21 MR. CASTELLITTO: I guess you can answer.

22 BY MR. GIUFFRA:

1 Q Yes, you had involvement?

2 A The answer is, yes, I had involvement with
3 the travel office.

4 Q Did you work with Mr. Foster regarding the
5 travel office matter?

6 A Yes.

7 Q Did you have any -- and do you have any
8 understanding as to whether Mr. Foster ever spoke to
9 David Watkins about the travel office?

10 A Independently, it has been reported in the
11 press over and over that he did. David Watkins was
12 in a meeting with Vince Foster and I, so the answer
13 is yes.

14 Q And do you recall whether Mr. Foster took
15 notes at that meeting?

16 A I don't recall.

17 Q Was Mr. Foster someone who, as a regular
18 matter, took notes at meetings?

19 A Not necessarily. No.

20 Q But did he sometimes take notes at meeting?

21 A Sometimes he did.

22 Q So he may well have taken notes at this

1 meeting; is that right?

2 A What I am saying is I don't recall that he
3 did or didn't.

4 Q What was discussed at this meeting between
5 yourself and Mr. Foster and Mr. Watkins?

6 MR. ATKINS: Off the record, please.

7 (Discussion off the record.)

8 BY MR. GIUFFRA:

9 Q I'd like to show you some documents which
10 bear Bates DKS 028928 through 029043 -- let me take
11 a break.

12 (Recess.)

13 MR. GIUFFRA: I would like to ask him
14 several questions about any communications he had
15 with Mr. Foster, Mr. Watkins regarding the travel
16 office. Counsel indicated -- counsel for Mr. Kennedy
17 indicated during the break that he will instruct his
18 client, am I correct, not to answer his questions
19 because they are outside the scope of the
20 resolution?

21 MR. CASTELLITTO: Yes.

22 MR. KRAVITZ: I am not sure that's actually

1 accurate. My recollection is that Mr. Castellitto
2 stated that, to the extent those questions were
3 directly related to the creation of any documents
4 that were in Mr. Foster's office at the time of Mr.
5 Foster's death, that he would not object to those
6 questions; is that correct?

7 MR. CASTELLITTO: Yes, that's correct,
8 that's what we discussed. I don't think Bob is
9 trying to misrepresent what I said. The
10 understanding is if it is within the scope of the
11 Senate resolution, which is the handling of documents
12 in Vince Foster's office after his death, you are
13 entitled to go into it. But if you are going to ask
14 him questions about conversations he had with Vince
15 Foster or David Watkins about the travel office,
16 that's outside the scope. And he testified at length
17 to that in other arenas and I don't want to have him
18 spending his time here doing that. It is outside the
19 scope of this committee's resolution.

20 MR. KRAVITZ: Let me just put my position
21 on the record. First of all, and I guess I don't
22 want to speak for Mr. Kennedy and Mr. Castellitto,

1 but I don't know that anyone gave anyone any notice
2 about -- that there would be any questions about the
3 travel office matter at today's deposition. And it
4 appeared to me Mr. Kennedy was not prepared to
5 testify about that subject.

6 My understanding was that the subject of
7 today's deposition was supposedly the November 5,
8 1993 meeting. We haven't had any questions about
9 that yet. But I think just as a matter of comity
10 that it is really not appropriate to go into the
11 travel office matter at this deposition. I think
12 more important --

13 MR. GIUFFRA: It is my understanding at the
14 Neil Eggleston deposition there were questions about
15 the travel office.

16 MR. KRAVITZ: Mr. Eggleston, there were
17 limited questions about that.

18 MR. GIUFFRA: That's what we are probing
19 here.

20 MR. KRAVITZ: My -- more important, my
21 position is that, to the extent questions to
22 Mr. Kennedy about the travel office matter go

1 directly to the issue of documents that were, or at
2 least to that Mr. Kennedy has reason to believe were
3 in Mr. Foster's office at the time of Mr. Foster's
4 death, I will not object to those questions.

5 To the extent you are asking him questions
6 about conversations he had with Mr. Watkins, that has
7 nothing to do with any subject in our resolution, and
8 I will object to those questions. To the extent you
9 ask him questions about conversations he had with
10 Mr. Foster, at this time, unless you can tie those
11 questions to documents in Mr. Foster's office, I am
12 going to object to those questions.

13 Mr. Kennedy already testified that he has
14 no recollection of whether Mr. Foster took notes, at
15 least at this one meeting that he has testified
16 about, involving himself, Mr. Foster and Mr. Watkins,
17 and I think that that should answer that question.

18 MR. GIUFFRA: Well, in fact --

19 MR. KRAVITZ: Let me just finish. If you
20 intend or if you would like to ask substantive
21 questions about the travel office matter, which
22 clearly are beyond the scope of the resolution, I am

1 going to object at this time and ask Mr. Kennedy not
2 to answer those questions pending an opportunity to
3 discuss the matter with Mr. Ben-Veniste and Senator
4 Sarbanes, hopefully over lunch. Actually, what I
5 would do is ask you to defer asking any of those
6 questions until after lunch. We don't have to get
7 into asking people not to answer questions.

8 MR. GIUFFRA: I don't have a problem with
9 that. Just so the record is clear, Mr. Foster's
10 office contained, insofar as we know at this point in
11 time, a diary with regard to the travel office
12 matter. The scraps of paper that were found in his
13 briefcase following his death also make reference to
14 the travel office matter. And if Mr. Foster had
15 documents reflecting communications with Mr. Watkins,
16 that would be relevant to, for example, providing a
17 motive for people to go into his office and perhaps
18 remove documents from his office regarding the travel
19 office.

20 MR. KRAVITZ: Bob, we also know Mr. Foster
21 had documents in his office regarding the Supreme
22 Court nomination of Ruth Bader Ginsburg. It is not

1 your position because of that we have jurisdiction to
2 investigate that nomination; is it?

3 MR. GIUFFRA: Obviously there is a real
4 difference when you have a document that was produced
5 by the White House, about a week ago, that had not
6 been produced.

7 MR. KRAVITZ: I don't think it ever has
8 been provided to this committee because I don't think
9 it is relevant to this committee's resolution. That
10 document was produced to the House. My understanding
11 is that this committee has never complained about the
12 fact that that document was not produced to it. As I
13 assume that you and the rest of this committee
14 recognize that it is not responsive to any document
15 request this committee has ever made. Just so the
16 record is clear, the document that you and I are
17 referring to is the Watkins memo.

18 MR. GIUFFRA: And I had identified it
19 earlier. Why don't we go on and stop wasting
20 transcript pages on this.

21 MR. KRAVITZ: That's a great idea.

22 MR. GIUFFRA: And we will consider it after

1 lunch.

2 BY MR. GIUFFRA:

3 Q Mr. Kennedy, let me show you a document
4 that we obtained from the White House, from
5 Mr. Kendall, excuse me, a little bit over a week ago,
6 that bears Bates numbers DKS N 28928 through DKS N
7 29043. Have you ever seen this document before?

8 A Yes.

9 Q When did you first see this document
10 before?

11 A Let's see, what's today? Today is Monday.
12 Last week.

13 Q Do you recall approximately when last week
14 you had seen this document?

15 A Well, since it's discovery, the firm got a
16 copy of it, and those members of the firm and me were
17 advised we could come down and look at it to see what
18 these documents reflect, so I took advantage of
19 that.

20 Q So it is your testimony you had not seen
21 these documents prior to last week?

22 A Yes.

1 Q You did not see these documents, for
2 example, during the 1992 Presidential campaign?

3 A No, sir.

4 Q Do you have any knowledge with regard to
5 the chain of custody with regard to these documents?

6 A I do not.

7 Q Have you ever discussed Rose billing
8 materials with Caroline Huber --

9 A Well, countless times.

10 Q -- with regard to the Madison matter?
11 Excuse me.

12 A No. I don't think so.

13 Q Do you have any understanding as to whether
14 Rose billing materials, with regard to the firm's
15 representation of Madison, were obtained by anyone
16 during the 1992 Presidential campaign?

17 A I know that Vince Foster, during the 1992
18 campaign, took a look at the firm's representation of
19 Madison so that the firm could respond during the
20 campaign to various Madison related issues that on
21 had come up in the campaign.

22 Q Do you have any understanding as to whether

1 Mr. Foster attempted to obtain billing records with
2 regard to the firm's representation of Madison?

3 A When?

4 Q During the 1992 Presidential campaign?

5 A I don't know that with particularity, but I
6 think he probably did in context of trying to respond
7 on behalf of firm to the Madison issues.

8 Q But you don't have any knowledge with
9 regard to whether Mr. Foster actually attempted to
10 obtain Rose billing records relating to Madison
11 during the 1992 Presidential campaign?

12 A All I can do is assume that he did.

13 MR. ATKINS: Speculate is a better word.

14 THE WITNESS: Speculation is a better
15 word. It is purely speculation, I think he probably
16 did.

17 BY MR. GIUFFRA:

18 Q What is the basis for your belief?

19 A Well, I know that he -- I know that he
20 requested the basic files on Madison during the
21 campaign.

22 Q How do you know that Mr. Foster requested

1 the basic files on Madison during the 1992 campaign?

2 A Because he requested I help him get those
3 from our remote storage during the 1992 campaign.

4 Q Do you recall approximately when that was?

5 A I think it was really relatively early in
6 1992, but the precise date, I do not remember.

7 Q And did you make efforts to obtain the Rose
8 firm's files, with regard to Madison, from the remote
9 storage?

10 A All I did was be sure that his request for
11 those files was handled promptly.

12 Q Did you contact anyone?

13 A I talked with Mary Russell, who was head of
14 our couriers, and said let's get these things as
15 quick as we can.

16 Q And do you know whether there were any
17 files, at the Rose Law Firm's remote storage,
18 relating to Madison during the 1992 campaign?

19 A I assume they were, yes. I mean, trying to
20 answer your question completely, I didn't go out
21 there myself. I didn't handle them. I just assumed
22 they were retrieved and given to Vince, that's

50

1 speculation on my part.

2 Q Did anyone indicate that there were no
3 files at the remote storage relating to the Madison
4 representation?

5 A Absolutely not.

6 Q So, as far as you know, there were files
7 relating to Madison at the firm's remote storage
8 facility?

9 MR. KRAVITZ: Objection. He said it is
10 speculation. He said he assumes, based on
11 speculation, that there were.

12 THE WITNESS: I assume that there were. As
13 I say, I did not retrieve them myself, so I believe
14 there were.

15 BY MR. GIUFFRA:

16 Q You believe that had there not been any
17 files, Ms. Russell would have advised you of that
18 fact?

19 A Probably so.

20 MR. KRAVITZ: Is that speculative as well?

21 THE WITNESS: Well, of course, absolutely.

22 BY MR. GIUFFRA:

1 Q Mr. Kennedy, in the past when you have
2 asked for files from the Rose Law Firm's remote
3 storage facility and the files no longer were in
4 existence, someone would have advised you the files
5 were no longer in existence?

6 A That's a fair answer, yes, but since we are
7 talking -- I have to say we are talking about a
8 negative, nobody advised me of that.

9 MR. GIUFFRA: I'm sorry about this. Can we
10 take a break for a second.

11 (Recess.)

12 BY MR. GIUFFRA:

13 Q Do you recall anything more about your
14 request to Ms. Russell to obtain Rose's Madison file
15 from your storage facility?

16 A No.

17 Q Do you know whether Mr. Foster ultimately
18 received some documents from the storage facility
19 relating to the representation of Madison?

20 A Speculation, I assume that he did. I don't
21 know for sure.

22 Q Why do you assume that he did?

1 A I assume that he did simply because I do
2 know that the firm made a response with regard to
3 Madison matters.

4 Q What do you know about the firm's response
5 with regard to Madison matters during the 1992
6 campaign?

7 A All I know is that the press inquiries were
8 dealt with. And I can't remember what they were,
9 specifically what the response was.

10 Q And you had no role with regard to helping
11 to formulate those press responses?

12 A Did not.

13 Q Do you have any knowledge with regard to
14 how Madison retained the Rose Law Firm in 1985?

15 A Other than what has been reported in the
16 press, no.

17 Q So you never have discussed the retention
18 of Madison -- strike that -- the retention of Rose by
19 Madison in 1995?

20 A You say 1995?

21 Q 1985.

22 A No.

1 Q You never discussed with Mrs. Clinton
2 whether she brought Madison and its clients to the
3 Rose Law Firm?

4 A I have not.

5 Q Have you ever discussed that with
6 Mr. Massey?

7 A No, I have not.

8 Q Did you ever discuss who brought the
9 Madison account into Rose with Mr. Foster?

10 A No. I did not.

11 Q So your testimony is you don't recall
12 discussing that subject with anyone other than your
13 counsel?

14 A That's correct.

15 MR. KRAVITZ: I don't think his testimony
16 is that he did discuss it with his counsel.

17 THE WITNESS: That's correct.

18 BY MR. GIUFFRA:

19 Q Were you aware in 1985 of the fact that
20 Madison owed some money to the Rose Law Firm for
21 prior representation?

22 A No.

1 Q Do you have any knowledge with regard to
2 any steps that were taken by the Rose Law Firm to see
3 that Madison paid its bill that was due as of 1985?

4 A I hate to say this, Bob, but you are
5 confusing me. If you are talking 1985, and you are
6 talking Madison, I don't think Madison owed us any
7 money in 1985.

8 Are you talking about pre-representation,
9 post-representation?

10 Q Pre-representation from earlier
11 representation.

12 A In 1985, I am unaware of any earlier
13 representation of Madison by the Rose Law Firm.

14 Q When did you first learn that the Rose Law
15 Firm had been retained by Madison?

16 A I suppose I heard about it in some form or
17 fashion during that time frame. You know, hallway
18 chatter.

19 Q Do you have any knowledge with regard to
20 the Rose Law Firm's services to Madison in connection
21 with the issuance of -- by Madison of preferred
22 stock?

1 A Well, as I previously testified, I was
2 consulted by Massey with regard to that matter
3 because I had some expertise regarding private
4 placements of securities. Although I could not have
5 testified about this until I saw the time records,
6 evidently I attended a meeting on the stock offering
7 matter, but that's basically it.

8 Q Did you ever discuss anything having to do
9 with the firm's representation of Madison with
10 Mrs. Clinton?

11 A No.

12 Q So the only person you would have spoken to
13 was Mr. Massey?

14 A Yes.

15 Q Was it your understanding that Mrs. Clinton
16 was the billing partner on this matter?

17 MR. KRAVITZ: Was it or is it his
18 understanding?

19 THE WITNESS: What's your time frame?

20 BY MR. GIUFFRA:

21 Q In 1985, 1986 were you aware that
22 Mrs. Clinton was the billing partner for the Rose Law

1 Firm in connection with this representation of
2 Madison?

3 A I may have been. But I don't recall when I
4 knew that. And, Bob, that's the best I can do. At
5 some point I probably did know, simply because of
6 firm year-end matters, but no particular importance
7 would have attached to me at that point in time.

8 Q Do you know whether there ever came a time
9 when Mrs. Clinton spoke to Beverly Bassett about
10 anything having to do with Madison?

11 A Bob, from press reports I do. I would not
12 have known that contemporaneously with those
13 conversations.

14 Q Now in 1985, 1986, what was the role of a
15 billing partner at the Rose Law Firm with regard to a
16 matter?

17 A Well, that person was responsible for,
18 obviously, sending out the bills. Depending on the
19 matter, the parties involved, the facts, the
20 circumstances and whatnot, there could have been a
21 supervisory role attached to that, or maybe not a
22 supervisory role. But, the billing partner was

1 responsible for getting the bills out to the client.

2 Q With regard to the work of associates, what
3 is the Rose Law Firm's practice with regard to the
4 role of partners and the supervision of associates?

5 A Depending on the associate's degree of
6 experience, expertise, intelligence, perception
7 within the firm, you get varying degrees of
8 supervision. But partners were responsible for, you
9 know, being sure that the associates did the work
10 timely, efficiently, correctly.

11 Q Did there come a time in 1985 when you
12 became aware of the fact that the Rose Law Firm was
13 providing services to Madison in connection with a
14 transaction involving IDC?

15 A No.

16 Q Are you aware of a real estate -- strike
17 that.

18 In 1985, 1986 were you aware of a real
19 estate project in Little Rock called Castle Grande?

20 A No.

21 Q When did you first learn of a real estate
22 project called Castle Grande?

1 A I am sure it was from press reports.

2 Q Do you know Seth Ward?

3 A I have met Seth Ward, yes.

4 Q Did there come a time when you learned that
5 Mr. Ward was involved in this real estate project
6 called Castle Grande?

7 A Only from press reports.

8 Q So it is your testimony, for example, that
9 you never spoke to Mr. Hubbell about Castle Grande?

10 A Never.

11 Q Do you know why Mr. Foster asked you to
12 take steps to obtain the firm's Madison files from
13 the storage facility during the 1992 campaign?

14 A Chief operating officer of the firm, he
15 knew that I could get people to respond to me.

16 MR. KRAVITZ: Just so the record is clear,
17 you were the chief operating officer of the firm.

18 THE WITNESS: In 1992 I was the chief
19 operating officer of the firm, other term, managing
20 partner.

21 BY MR. GIUFFRA:

22 Q What was the term you were the chief

1 operating officer of the Rose Law Firm?

2 A I believe from late in 1986 up through
3 January 31, 1993. With one qualification, I am not
4 sure precisely when in '86 this happened. I believe
5 it was late in the year, but I am not sure of the
6 exact date --

7 MR. KRAVITZ: '86.

8 THE WITNESS: -- that I became chief
9 operating officer.

10 MR. KRAVITZ: I'm sorry.

11 THE WITNESS: I'm sorry.

12 BY MR. GIUFFRA:

13 Q When you made the request to Ms. Russell,
14 was it an oral request or written request for the
15 documents?

16 A I am sure I picked up the telephone to call
17 her.

18 Q During the period 1986 to 1993, what was
19 the Rose Law Firm's policy with regard to the
20 retention of client files?

21 A What's our time period?

22 Q Late '86 through January 31, 1993.

1 A Bob, I will have to give you somewhat of a
2 long answer to that question.

3 We were not doing a very good job, on an
4 organized document destruction basis, when I came on
5 the scene as chief operating officer. And so as part
6 of, you know, many things that I did in connection
7 with the operation of the law firm, I instituted a
8 program to try to put that on an orderly basis. And
9 so '86, '87 I started a program of trying to get
10 lawyers to identify files that we had in remote that
11 could be destroyed outright, could be destroyed, but
12 prior to destruction be microfilmed or retained, and
13 made efforts while I was chief operating officer to
14 make that program work, okay.

15 And so we were trying to clean up remote,
16 and individual partners were given a list of their
17 files at remote and asked to identify which files, as
18 I said, could be destroyed, which files could be --
19 should be microfilmed, then destroyed and to identify
20 matters which could not be destroyed. And that would
21 include, for example, wills, abstracts, deeds, stuff
22 like that.

1 Q Approximately how large is the Rose Law
2 Firm's outside storage facility?

3 A That's a moving target. I mean, it --
4 started off in one space, it got bigger, it got
5 bigger. It is one of the reasons for pressing on
6 this program is that it was not -- we were not using
7 space efficiently, we were not storing documents
8 efficiently and we had way too much junk.

9 Q Okay, if I could just take you through some
10 questions about these billing records.

11 If I could call your attention to the first
12 page, 28928, in the upper left-hand corner it says
13 "report ID bill pay 2/12/92, 8: 41"; what does that
14 refer to?

15 THE WITNESS: Alden, you want to see
16 these?

17 MR. ATKINS: All right.

18 THE WITNESS: My guess would be that's when
19 this report was run.

20 BY MR. GIUFFRA:

21 Q You have no knowledge with regard to the
22 running of this report?

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1 A No.

2 Q No one asked you to run the report?

3 A No.

4 Q You weren't aware of anyone running the
5 report?

6 A Correct.

7 MR. ATKINS: By "the report," are you
8 referring to the document that's the first five pages
9 of this collection of paper?

10 BY MR. GIUFFRA:

11 Q The first five pages of documents which is
12 28928 to 28932. You have no knowledge with regard to
13 the running of this --

14 A No.

15 Q -- and that would have been done in the
16 accounting department of the firm?

17 A Yes.

18 Q Then there are other documents attached to
19 this document, bills, for example, and you have no
20 knowledge with regard to the collection of these
21 documents?

22 A Be specific. When you said the collection

1 of these documents, what do you mean?

2 Q Strike that -- you have no knowledge as to
3 the chain of custody of these documents, as to how
4 they appeared at the White House residence last week?

5 A That's correct.

6 MR. ATKINS: I believe it was a week and a
7 half ago.

8 MR. GIUFFRA: Excuse me, it's been a long
9 week.

10 BY MR. GIUFFRA:

11 Q If I could call your attention to page
12 28931.

13 A 28931, okay.

14 Q The reference, it has "client total fee,
15 \$21,225" is that the A money that was billed by the
16 Rose Law Firm to Madison?

17 A Seems to be, yes.

18 Q Then, to the right there is a column over
19 under "realization," what does that refer to?

20 A It appears to be an amount collected in
21 excess of the stated hourly rate.

22 Q Now, during this period, during the period

1 1985-1986, was the firm billing clients on an hourly
2 basis or sometimes billing on a basis other than an
3 hourly basis?

4 A Both.

5 Q Do you have any knowledge as to whether the
6 Madison Guaranty was an hourly basis billed client or
7 was being billed on some other basis?

8 A Independent knowledge, I don't know. I
9 mean, the records speak for themselves, but I don't
10 know what was going on at that point in time.

11 Q What do these records indicate to you with
12 regard to whether Madison was being billed as an
13 hourly basis client or a -- by some sort of a premium
14 basis?

15 MR. ATKINS: Let me interrupt. Have you
16 studied these records to answer these questions?

17 THE WITNESS: I have not. I have not done
18 so.

19 BY MR. GIUFFRA:

20 Q Why don't you just take a look at the first
21 five pages of the billing records.

22 A Okay, I have skimmed over them.

1 Q Do the records give you any indication as
2 to the nature of the billing relationship between
3 Madison and the Rose Law Firm?

4 A It looks like an hourly rate arrangement.
5 But there must have been some arrangements, or the
6 records indicate that there was at least an over
7 realization on an hourly rate basis, at least that's
8 what the records indicate.

9 Q If Madison had not been an hourly billed
10 basis client, how would this client billing and
11 payment history have been different?

12 A I don't understand your question. Again,
13 let me be as helpful as I can. This report would
14 have looked almost identical to this, okay. And
15 the -- what I want to make clear here is the fact
16 that there is a dollar amount in the over/under
17 realization column does not necessarily mean that the
18 client was not billed on a hourly basis, does not
19 necessarily mean that. It indicates it, but it is
20 not determinative.

21 Q What other factors might explain how the
22 client was billed?

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1 A Well, if a lawyer had not recorded all of
2 his time, for example, and -- but knew the time had
3 been incurred and decided to bill it, it could come
4 up on that basis.

5 Q Is that a common practice of the Rose Law
6 Firm in this period, 1985-1986?

7 A A common practice? I would say no,
8 absolutely, it was not a common practice. But did it
9 occur? Sure, it occurred.

10 Q So that, for example, if a lawyer had
11 attended a meeting or series of meetings and not
12 reflected them in their time entries, the lawyer
13 might add an additional amount to the bill which will
14 key over the hours --

15 A Let me give you a sort of likely scenario
16 when this could have occurred, Bob. You get close to
17 the firm's year end, let's say, in a given year, and
18 you need to get the bills out because you want to
19 collect prior to the firm's year end. And you know,
20 for example, that you've got -- that you attended a
21 meeting, using your example, but you also know you
22 have to get a bill out the next day. And you know,

1 given the way the firm's time keeping -- the
2 mechanical entry process, that that time is not going
3 to -- you are not going to be able to get it into the
4 system in time to reflect it on the bill. You go
5 ahead and incorporate it in the bill.

6 Q The end of the year, the firm's fiscal year
7 at least in 1986, 1985, that period, that's what,
8 January 30 or 31?

9 A Yes.

10 Q 30 or 31?

11 A January 31. So, that could have happened.

12 Q Do you have any knowledge of that ever
13 happening, with regard to the firm's representation
14 of Madison?

15 A I do not. I mean, I just don't know the
16 specifics of these bills.

17 Q Let me call your attention to page DKS
18 29011.

19 A 290?

20 Q 29011.

21 A 29011. All the way at the back, Bob,
22 somewhere.

1 Q I will get it for you. Here is 29004, I
2 will get it. Okay. If I could call your attention
3 to part of this document denoted "time summary by
4 attorney," just look at Hillary Clinton's entry.

5 This time summary indicates that she spent
6 7.3 hours during this time covered by this billing
7 memorandum. Are billing memoranda being prepared on
8 a quarterly basis or a monthly basis?

9 A Complicated answer to that question:
10 Attorneys were requested to bill monthly, Bob.
11 Unquestionably, we were trying to maximize revenues.

12 Much as I regret to say it, not everybody
13 did that. So billing memorandums could be prepared
14 depending on what the attorney's practice was: Would
15 be prepared monthly, quarterly, upon request. So,
16 there was a lofty ideal and it was met in varying
17 degrees by different attorneys.

18 Q Now this indicates that Mrs. Clinton billed
19 7.3 hours at her standard fee which was \$125 an hour
20 at that time, comes out to \$912.50.

21 MR. CASTELLITTO: Excuse me. Do you mean
22 billed or as reflected in the accounting system at

1 this time?

2 BY MR. GIUFFRA:

3 Q Reflected in the accounting system at this
4 time. And to the right, handwritten in it says
5 2731.25. Do you know what that number reflects?

6 A Well, it looks like that number was plugged
7 in as the amount to bill on this matter.

8 Q And would you have any explanation for why
9 the matter value is \$912.50 and the amount to bill is
10 \$2731.25?

11 MR. CASTELLITTO: By "matter value," you
12 are referring to the matter value as reflected in the
13 accounting record?

14 MR. GIUFFRA: Correct.

15 THE WITNESS: I'm sorry. Could you repeat
16 your question? I'm sorry.

17 BY MR. GIUFFRA:

18 Q In the matter value, it denotes \$912.50.
19 The amount to bill is \$2731.25.

20 What would be an explanation for the
21 discrepancy?

22 MR. KRAVITZ: Are you asking him if he

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1 knows the explanation or are you asking him to give
2 you what he assumes is an explanation?

3 MR. GIUFFRA: We will ask both questions.

4 BY MR. GIUFFRA:

5 Q Do you have any knowledge for this
6 discrepancy?

7 A No.

8 MR. CASTELLITTO: I object to the term
9 "discrepancy." I would prefer the word
10 "difference."

11 BY MR. GIUFFRA:

12 Q Difference.

13 A If the question is do I have any knowledge
14 of my own as to what went on with this particular
15 billing memorandum, the answer is no, I do not.

16 Q Did you ever discuss with Mrs. Clinton
17 anything having to do with her billing of Madison
18 Guaranty?

19 A No.

20 Q Have you ever discussed anything having to
21 do with Mrs. Clinton's billing of Madison Guaranty
22 with anyone, other than your counsel?

1 A Well, as I previously testified, when these
2 records became available, Ron Clark called and said
3 we've got them, do you want to come down and look at
4 them, so that happened. Otherwise, no.

5 Q What would be the explanation for the
6 difference between the matter value listed under
7 Mrs. Clinton's name and the amount to bill under
8 Mrs. Clinton's name?

9 A There could be any number of those, Bob,
10 and any answer I give you I want to stress would be
11 totally speculation.

12 Looking at the time frame here, we are
13 getting awfully close to year end, so the explanation
14 that I gave you for where you might have an over
15 realization might have occurred.

16 There might have been a specific
17 arrangement with the client, oral or written, that on
18 this particular matter it could be overbilled.
19 Okay. Could have been erroneous time entries,
20 mechanical erroneous. She put down four hours
21 somebody typed one. I guess those are sort of the
22 main ones I could come up with. There might be other

1 explanations for this.

2 Q Can you think of any other explanations
3 just so the record is complete?

4 A I think those were the main possibilities.
5 I mean, you could, as I say -- I mean, there could
6 have been arithmetic errors made, probably not by
7 computer, but manually, possibly, something like
8 that.

9 Q The top of the page bearing Bates number
10 29011.

11 A 29011, okay.

12 Q There is a date 1/21/86, that would have
13 been the date of the billing memorandum?

14 A Yes.

15 Q If you could go to the beginning.

16 A We are going back to the beginning, okay.

17 Q Page bearing Bates number DKSN 28933.

18 A 28933.

19 Q Yes.

20 A Okay.

21 Q If I could just call your attention to the
22 handwriting at the bottom right-hand corner of the

1 document, it says "HRC I believe there was a
2 subsequent bill." Now do you know whose handwriting
3 that is?

4 A No, I don't. I do not.

5 Q Does that appear to be Mr. Foster's
6 handwriting, as far as you know?

7 A It is completely speculation on my part.
8 It looks a little like Vince's writing, but without
9 some other examples to compare it to, I will leave it
10 as speculation. It may be someone else's.

11 Q Would your best guess be Mr. Foster's
12 handwriting?

13 A Any guess would be speculation.

14 Q Why don't we turn to the next page, DKS
15 288934, it says "HRC this suggests first matter."
16 Does that look like Mr. Foster's handwriting?

17 A It looks like Vince's handwriting to me,
18 but I want to stress again that's speculation. This
19 writing here on this page looks more like Vince's
20 handwriting than the handwriting on 28933.

21 Q The handwriting on page 28933 on the
22 right-hand corner, top right-hand corner, do you know

1 whose handwriting that is?

2 MR. ATKINS: Upper right-hand corner.

3 MR. GIUFFRA: Right.

4 THE WITNESS: This copy is so poor -- no, I
5 do not.

6 BY MR. GIUFFRA:

7 Q And you have no knowledge with regard to
8 whether Mr. Foster ever discussed anything having to
9 do with these billing materials with Mrs. Clinton
10 during the 1992 Presidential campaign?

11 A I have no knowledge of that.

12 Q Let me ask you to turn your attention to
13 the document bearing Bates number 28940.

14 A 28940.

15 Q Yes. And this is difficult to read.

16 A Okay.

17 Q There is handwriting where it says "HRC."
18 The fourth entry down, 4/24/85, 1.5 hours -- 150,
19 that's the matter value?

20 MR. KRAVITZ: I think it is 180.

21 BY MR. GIUFFRA:

22 Q That handwriting where it says "review

1 draft documents," do you recognize that handwriting
2 at all?

3 A I do not. I'm sorry, I do not.

4 Q If I could call your attention to the
5 document 28947.

6 A 28947.

7 Q Yes.

8 A Okay.

9 Q The entry on the top right-hand corner
10 handwriting, does that look like Mrs. Clinton's
11 handwriting?

12 A The top right-hand corner?

13 Q Yes.

14 A I don't know whose handwriting that is.

15 Q Let's turn your attention to 28992.

16 A 28992.

17 Q Yes.

18 A Okay.

19 Q On the entry in the bottom WHK 9/12/85 9.8
20 hours, 225, conference with R. Massey, conference
21 with Davis Fitzhugh, and L. Ballege, does this
22 refresh your recollection of the work you performed

1 for Madison in 1985?

2 A To the extent that its -- that the entry is
3 there, the answer is yes to your question.

4 Q Do you have any other memory of any work
5 you might have performed for Madison?

6 A No, I don't remember doing this meeting,
7 Bob, but it was on -- as you know, 11 years ago, I'm
8 sorry, I just don't have any memory of this.

9 Q Okay, there appears to be what appears to
10 be a Post-it on this page 28992.

11 A Yes.

12 Q Do you know who Sandra would be?

13 A No. I mean, all matters through
14 10/31/85 -- I don't know.

15 Q Speculation?

16 A As long as we characterize it completely in
17 the area of speculation, which I am reluctant to do,
18 Sandra may have been Ms. Clinton's secretary at the
19 time. It could have been somebody in the accounting
20 department.

21 Q What was the name of Ms. Clinton's
22 secretary at this time?

1 A I'm sorry. I don't remember.

2 Q There is another Post-it further down the
3 page, "pull B memos from matter 1 and 3, even if
4 disbursement under \$1, bill like others, send up
5 draft bills"; whose handwriting is that?

6 A I don't know.

7 Q The next page 28993.

8 A Okay.

9 Q Do you know whose handwriting that would
10 be?

11 A No.

12 Q During the 1992 Presidential campaign, did
13 you have any discussions with anyone about the Rose
14 Law Firm's representation of Madison?

15 A Other than my conversation with Foster
16 about getting the records from remote, I don't recall
17 any. Bob, it is entirely possible that in the -- you
18 know, in the course of -- in the hallways somebody
19 might have said something to me, but I don't recall
20 any substantive discussions.

21 Q Do you recall any discussion with
22 Mrs. Clinton about Rose's representation of Madison?

1 A I can state with certainty I did not have
2 any conversations with Ms. Clinton.

3 Q Why do you believe that?

4 A Ms. Clinton was rarely at the Rose Law Firm
5 in 1992, rarely.

6 MR. KRAVITZ: Is this a good time to break
7 for lunch? How much more do you have?

8 MR. GIUFFRA: I have to go through the
9 notes.

10 MR. KRAVITZ: We should definitely break
11 for lunch sometime. Why don't we break for lunch
12 now.

13 (Whereupon, at 12:55 p.m., the deposition
14 was recessed, to be reconvened at 2:00 p.m. this same
15 day.)
16
17
18
19
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21
22

AFTERNOON SESSION (2:06 p.m.)

Whereupon,

WILLIAM H. KENNEDY, III

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

MR. GIUFFRA: This morning I asked several questions about the David Watkins memorandum that the White House released several weeks ago, and Mr. Kennedy testified that he had a meeting with Mr. Watkins and Mr. Foster about the travel office. And Mr. Castellitto found out from the White House counsel's office that any privilege that might be attached to that meeting has been waived by the White House. And I would like to ask Mr. Kennedy what was said to Mr. Kennedy and Mr. Foster by Mr. Watkins at this meeting.

MR. KRAVITZ: Let me state for the record, as I said this morning, I have no objection to Mr. Kennedy's testifying about any knowledge he may have about documents relating to the travel office or any other matters that Mr. Kennedy has reason to believe were in Mr. Foster's office at the time of

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Mr. Foster's death.

I do object to majority counsel wasting the committee's time asking questions about a matter, specifically the travel office matter, that is outside the scope of the committee's resolution at a time when we are nearing the target date for this committee's hearings. I think it is particularly inappropriate for majority counsel to insist on asking a question -- asking questions about a subject that is outside the resolution, subject that has been aired repeatedly in other forums, a subject that apparently will be aired again in the House this week. And I think it is totally inappropriate and a waste of our time and that's another example of a rerun.

I am not going to instruct Mr. Kennedy to not answer the question since I haven't had a chance to discuss this with Senator Sarbanes and because Mr. Kennedy is from out of town. But I do think it is important to put those thoughts on the record. I don't know whether Mr. Castellitto has any additional thoughts.

1 MR. CASTELLITTO: I concur with
2 Mr. Kravitz's comments. I guess I want to approach
3 the matter pragmatically. I believe Mr. Giuffra said
4 he has a couple of questions. If we can get through
5 it in a couple of minutes, it is probably quicker
6 than to continue to argue about whether or not --
7 well, we are not arguing about whether or not it is
8 outside the scope of the resolution. I think we all
9 agree it is outside the scope.

10 So why don't we just go ahead and do it. I
11 want to note for the record, it is 2:05. The
12 deposition started at 10:00 and we haven't had a
13 single question yet on Mr. Kennedy's notes on the
14 November 5, 1993 meeting at David Kendall's office.

15 MR. KRAVITZ: Which, I take it, was the
16 subject you were informed this deposition was on.

17 MR. CASTELLITTO: I think we were all under
18 the impression that might be the main subject of the
19 deposition.

20 THE WITNESS: Can you restate the
21 question?

22 EXAMINATION (Continued)

1 BY MR. GIUFFRA:

2 Q Why don't I restate it. What was the
3 substance of your conversation with Mr. Watkins and
4 Mr. Foster with regard to the travel office matter
5 during the -- I guess it was April, May 1993 period?

6 A Bob, I didn't just have one conversation
7 with David Watkins; there were a couple of them,
8 so -- which -- what do you want to do?

9 Q The conversation you had with Mr. Foster
10 and Mr. Watkins.

11 A Well, this was a meeting at which Foster
12 was there, I was there, Catherine Cornelius was
13 there, Harry Thomasson was there and Watkins came in
14 sort of after the meeting started. And it was a
15 meeting to get Vince and I up to speed on what had
16 happened in the travel office that gave rise to
17 concerns about its operation.

18 Q Was there any discussion of the role of the
19 First Lady with regard to the decision to terminate
20 the travel office employees?

21 A No.

22 MR. KRAVITZ: Bob, can I ask you a

1 question, whether you can point to a provision in the
2 resolution that that question is relevant to?

3 MR. GIUFFRA: Yes, the handling of the
4 documents in Vince Foster's office.

5 MR. KRAVITZ: Any other?

6 MR. GIUFFRA: That's the one that comes to
7 my mind now.

8 MR. KRAVITZ: You want to take a minute to
9 review the resolution.

10 MR. GIUFFRA: Let's go off the record for a
11 second.

12 (Discussion off the record.)

13 MR. KRAVITZ: Let's go back on the record.
14 The record should reflect that I've asked Mr. Giuffra
15 to identify any provisions in the Senate Resolution
16 120 that would authorize a question such as the last
17 question, which was whether there was any discussion
18 at this meeting relating to whether Mrs. Clinton
19 directed that employees in the travel office be
20 terminated. He cited one provision, which was the
21 handling of documents in Mr. Foster's office. And
22 given an opportunity to cite additional provisions,

1 did not cite any others.

2 MR. GIUFFRA: On that -- again, I don't
3 want to waste time on this. We have already spent
4 more time arguing about it than the amount of time to
5 answer questions.

6 MR. KRAVITZ: That's what happens when you
7 ask questions outside the resolution.

8 MR. GIUFFRA: There are other provisions in
9 the resolution contained in subsection B1, B2 and
10 B3. I think it is relevant to all three of those.

11 MR. KRAVITZ: Can you be more specific?

12 MR. GIUFFRA: I am not going to engage you
13 now. I want to get the deposition over with.

14 MR. KRAVITZ: The record should reflect it
15 is a completely nonspecific answer because there is
16 no specific answer.

17 BY MR. GIUFFRA:

18 Q Mr. Kennedy, do you have any knowledge with
19 regard to any efforts to review documents of Vincent
20 Foster at the Rose Law Firm, following his death?

21 Let me try another question. Do you
22 have any knowledge with regard to any effort to

1 review files of Vincent Foster maintained at the Rose
2 Law Firm, following his death?

3 A No.

4 Q Do you have any knowledge of any effort to
5 destroy any files of Vincent Foster maintained at the
6 Rose Law Firm, following his death?

7 A Absolutely not.

8 Q Now, did there come a time in 1991 when
9 Mrs. Clinton asked you to perform some legal services
10 in connection with governor and Mrs. Clinton's
11 investment in Whitewater Investment Corporation?

12 A Yes.

13 Q And what were the circumstances behind that
14 request?

15 MR. KRAVITZ: Hasn't Mr. Kennedy already
16 testified about this at great length this summer?

17 MR. GIUFFRA: In fact, Mr. Kravitz, he --

18 THE WITNESS: Are you talking about in
19 front of this committee?

20 MR. KRAVITZ: Didn't you testify about this
21 in your deposition this past summer?

22 MR. GIUFFRA: As I recall, an objection was

1 raised by Mr. Castellitto as to getting into the
2 subject matter unless Mr. Atkins was present. Is
3 that right, Mr. Castellitto?

4 MR. CASTELLITTO: I don't recall whether it
5 was on this topic. I certainly recall raising an
6 objection about getting into Rose Law Firm matters.

7 THE WITNESS: Neal, I testified something
8 about it the other day in open hearings as
9 Mr. Chertoff got into it, although I don't think in
10 previous depositions, and there was an attempt to do
11 so. And we did say it was a Rose Law Firm --

12 MR. KRAVITZ: Maybe I am confusing it with
13 testimony someone else gave about your work. It
14 might have been Mr. Hubbell's deposition testimony
15 about the work you did. If I am wrong I am wrong.

16 BY MR. GIUFFRA:

17 Q What were the circumstances surrounding
18 that request for the performance of legal services
19 for the First Family with regard to Whitewater?

20 A I don't know, wanting not to split hairs
21 with you when you say circumstances surrounding, the
22 First Lady simply asked me to do it.

1 Q What did Mrs. Clinton ask you to do for her
2 in connection with her investment in Whitewater
3 Development Corporation?

4 A She did not know the status of the real
5 estate development. She did not know what was going
6 on. She asked me -- my words for it are to take a
7 snapshot of it, to ascertain the status of it.

8 Q Did you open up a client matter in
9 connection with the services that you performed?

10 A I did not.

11 Q And during that period, was it a practice
12 of the firm that on some occasions lawyers would
13 perform work in connection with other partners's
14 investments?

15 A The answer is yes.

16 Q For example, a house closing?

17 A A house closing, also, stuff like that.

18 Q Did President and -- strike that.

19 Did Governor and Mrs. Clinton ever formally
20 retain the Rose Law Firm to perform these legal
21 services in connection with their development in
22 Whitewater Development Corporation?

1 MR. ATKINS: Help us with what you mean by
2 the words "formally retained."

3 BY MR. GIUFFRA:

4 Q Did President and Mrs. Clinton become a
5 client of the Rose Law Firm in connection with their
6 investment in Whitewater Development Corporation?

7 A The answer to your question is, yes, with
8 one caveat. I never spoke to the then governor about
9 this. I dealt only with Hillary, Mrs. Clinton.

10 Q In what respect did the -- did Mrs. Clinton
11 and Governor Clinton become a client of the Rose Law
12 Firm in connection with their investment in
13 Whitewater Development Corporation?

14 A I don't understand your question.

15 Q You just testified that they became a
16 client of the Rose Law Firm. You also testified
17 that -- why don't we ask -- did you ever bill
18 Governor and Mrs. Clinton for the legal services that
19 you performed in connection with their investment in
20 Whitewater Development Corporation?

21 A I did not.

22 Q If you would estimate, what was the

1 approximate amount of time that you spent on this
2 matter?

3 A Unknown for sure, but probably less than
4 ten hours.

5 Q Did any other lawyers at the firm assist
6 you in performing these legal services for the
7 Clintons?

8 A No.

9 Q What do you recall doing in the 10 hours
10 that you worked -- 10 hours or less that you worked
11 on the Clinton's investment in Whitewater Development
12 Corporation?

13 A Well, I engaged the services of one of the
14 firm's paralegals and we went and did an
15 investigation.

16 Q What was the name of the paralegal?

17 A Sue Kathy Jones.

18 Q And what sort of investigation did you and
19 Ms. Jones conduct?

20 A Well, Mrs. Clinton had delivered to me a
21 box, two boxes actually, of -- which were, as she
22 explained to me, all the records she had regarding

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1 the Whitewater real estate development. We took a
2 quick run-through of those, and then we commenced a
3 search of the real estate records in the appropriate
4 county to ascertain where it stood.

5 Q Did you make any requests for records from
6 Susan McDougal?

7 A No.

8 Q Did you make any requests for records from
9 Jim McDougal?

10 A No.

11 Q Did you attempt to speak to Jim McDougal?

12 A No.

13 Q Did you attempt to speak to Susan McDougal?

14 A No.

15 Q Do you know if Mrs. Clinton attempted to
16 speak to Jim McDougal or Mrs. McDougal?

17 A At this particular time frame?

18 Q Yes.

19 A I do not.

20 Q Are you aware of any other attempts -- any
21 other attempts by Mrs. Clinton to speak to Jim or
22 Susan McDougal in connection with Governor and Mrs.

1 Clinton's investment in Whitewater Development
2 Corporation?

3 MR. KRAVITZ: At any time?

4 MR. GIUFFRA: Yes.

5 THE WITNESS: We are saying in the known
6 universe of time?

7 BY MR. GIUFFRA:

8 Q Did Mrs. Clinton indicate to you she had
9 attempted to speak to Jim and Susan McDougal about
10 their investment in Whitewater -- her investment in
11 Whitewater Development Corporation in 1991?

12 A Yes, she had previously had conversations
13 with them.

14 Q And were those conversations in 1991?

15 A I don't think so. I believe they were
16 earlier than that.

17 Q And what did Mrs. Clinton say to you about
18 her conversations with Jim -- is it Jim McDougal,
19 Susan McDougal or both?

20 A I don't remember at all her saying that she
21 had ever spoken to Susan, but she basically said that
22 she had talked with Jim McDougal previous to that

1 time and that she had tried to get all the records
2 that there were, and that, in one form or another,
3 Jim McDougal was putting pressure on her to get --
4 she and the governor, the then governor, out of the
5 investment.

6 Q Did she indicate to you why Mr. McDougal
7 wished to have Governor and Mrs. Clinton out of their
8 investment in Whitewater Development Corporation?

9 A Some background is necessary.

10 At this point in time McDougal has been
11 tossed out of Madison, tried and acquitted on
12 regulatory fraud matters, basically had a breakdown.
13 I don't know if he and Susan are divorced at this
14 point, but they are living separate and apart.
15 McDougal is a mess.

16 Ms. Clinton said his behavior was erratic.

17 Q This is in '91?

18 A When she is talking to me. His behavior
19 was somewhat erratic in that he basically said, I did
20 all the work, I should own this thing.

21 Q Did she indicate to you whether she had
22 spoken to Jim McDougal in person or by telephone?

1 A Didn't get into that.

2 Q But when were you asked by Mrs. Clinton --
3 strike that.

4 When during 1991 were you asked by
5 Mrs. Clinton to provide some legal services in
6 connection with Governor and Mrs. Clinton's
7 investment in Whitewater Development Corporation?

8 A I think it was in March of 1991.

9 Q And did you perform all the services that
10 you performed in March of 1991?

11 A No. It dragged out over a period of some
12 months.

13 Q Do you recall approximately how many months
14 this project dragged out over?

15 A I don't recall specifically, but probably
16 it went into June or July. To make a complete
17 answer, don't get the impression we were, we were
18 doing -- that we were working on this continually all
19 that time. It was sporadic in nature.

20 Q When you indicated that you spent less than
21 ten hours working on Whitewater Development
22 Corporation matters, what's the basis for your

1 estimate of less than ten hours; did you have any
2 time records?

3 A I did not put any time down for this. This
4 is my recollection of it.

5 Q What was your understanding as to when
6 Mrs. Clinton spoke to Mr. McDougal? Would it have
7 been early '91 or sometime in '90?

8 A I don't remember discussions about time
9 frame. I got the sense that some of these
10 discussions were relatively current. But, whether
11 they were in 1991 or 1990 or even earlier than that,
12 Bob, I cannot say. We didn't get into that, as to
13 when she had had these conversations with him.

14 Q Did Mrs. Clinton indicate to you
15 approximately how many conversations she might have
16 had with Jim McDougal?

17 A No.

18 Q Did she indicate to you whether Jim
19 McDougal had spoken to the governor?

20 A She did not.

21 Q Do you have any understanding as to whether
22 Jim McDougal spoke to the governor in 1990 or 1991?

1 A I do not.

2 Q Do you know whether Mrs. Clinton spoke to
3 Mr. McDougal after March of 1991?

4 A I don't believe that she did. And that is
5 based on, sort of, where our legal services went, but
6 I don't believe she did.

7 Q Did Mrs. Clinton have an interest in
8 selling, she and Governor Clinton's investment in
9 Whitewater Development Corporation back to
10 Mr. McDougal?

11 A I can't answer, Bob, as to what was in her
12 mind. The best way to say, to describe sort of her
13 attitude about it was, is that she had almost no
14 knowledge about what was going on with it. She
15 wanted to get into a position where she could make
16 some decisions about what to do about it.

17 Q Did she indicate to you approximately how
18 much money she and Governor Clinton had invested in
19 Whitewater Development Corporation?

20 A No, she did not.

21 Q Did she indicate to you whether she and
22 Governor Clinton had any outstanding liabilities with

1 regard to Whitewater Development Corporation?

2 A Yes, she did.

3 Q And what did she say about any outstanding
4 liabilities she and Governor Clinton might have had
5 with Whitewater Development Corporation?

6 A What she said was, is that she and the then
7 governor were on a mortgage relating to the initial
8 acquisition of the land. And she thought that the
9 mortgage was being serviced from land sales
10 contracts, but she wasn't sure. She did not know the
11 principal amount of that mortgage.

12 Q What was the basis -- did she indicate to
13 you what the basis was for her belief that this
14 mortgage was being serviced from sales of land
15 contracts?

16 A Because she was receiving no indication
17 of -- I mean, they weren't dunning her or anything.
18 As far as she knew at the time, it was being serviced
19 on that basis, but she wasn't totally certain of
20 that.

21 Q Did she indicate to you that -- whether
22 Mr. McDougal was threatening in any way to make an

1 issue of Governor and Mrs. Clinton's investment in
2 Whitewater Development Corporation?

3 A Well, I think I've already answered that.
4 She said that he was putting pressure on her to get
5 out of it. To get it over to them, to him.

6 Q What sort of pressure was Mr. McDougal
7 placing on Mrs. Clinton?

8 A She did not go into detail as to what, if
9 anything, he was threatening to do, but she was very
10 clear that he was wanting these -- the Clintons'
11 stock to be conveyed to him.

12 Q But she didn't indicate to you -- you have
13 no understanding of the nature of the pressure that
14 Mr. McDougal was threatening to bring to bear if the
15 stock was not transferred to him?

16 A No, as I explained. Some of this -- I knew
17 some of this -- the background I gave you about where
18 Mr. McDougal was at this point in time I knew from
19 sort of just being in Arkansas, and some of this she
20 told me about. For example, I did not know at that
21 time that he was -- I can't remember what the phrase
22 is, manic-depressive or whatever he was, but she

1 described his behavior as erratic.

2 Q Did she indicate why his behavior was
3 erratic in any specific way?

4 A No. I mean, I am trying to convey to you a
5 sense of this.

6 She described his behavior as erratic,
7 someone that was not acting rationally, someone that
8 she couldn't deal with.

9 Q Now, when you reviewed the two boxes of
10 files that you obtained from Mrs. Clinton, what did
11 you see in those files?

12 A Okay, I am going to draw a dichotomy for
13 you.

14 One box was, the best word for it is a
15 mish-mash of records, and I mean that in the purest
16 sense of the word. No organization, chaotic,
17 incomplete documents, no stock certificates, a mess.

18 The other box, to this day, I have never
19 really truly known what it was. But it was a
20 compilation of what looked to be some sort of
21 notices, and you could not look at them and tell what
22 they were. I have always assumed, but never been

1 able to confirm, that they probably were payment
2 notices issued by the bank indicating when payments
3 had been received on contracts for sale of the lots
4 in Whitewater. But I never got final confirmation of
5 that.

6 Q For approximately how long were these boxes
7 in your possession?

8 A I would say, roughly, from late in March of
9 1991 up until, I would say, February of 1992. And
10 when I say "my possession," that's the Rose Law
11 Firm's possession.

12 Q Where did you maintain these files?

13 A They were in my office for a while. Then
14 they were in Sue Kathy Jones' office for a while.

15 Q And in February 1992, where were the boxes
16 located?

17 A At some point, I believe during that month,
18 they were delivered to the campaign.

19 Q They were -- before being delivered to the
20 campaign, were they in Sue Kathy Jones' office?

21 A They were either in her office or mine.

22 Q You can't remember which office they were?

100

1 A No, I don't. Most of the time I think they
2 were in Sue's, but they were in mine for a while
3 and -- I'm sorry, Bob, I just don't remember.

4 Q What do you recall about the circumstances
5 surrounding the transfer of those boxes to the
6 campaign?

7 A Okay.

8 A bit of a long answer, indulge me.

9 At about the time -- in Arkansas, it is
10 impossible to do what The New York Times did without
11 people hearing about it, and I am talking about the
12 "seminal but badly flawed Jeff Gerth" article.

13 Rumors kicked around for some time that The
14 New York Times was working on an article about
15 Whitewater. The campaign geared up to make a
16 response. A woman named Loretta Lynch was identified
17 to me as someone who would be trying to get, on
18 behalf of the campaign, her arms around what
19 Whitewater was. So on at least one, but maybe a
20 couple of occasions she came over to the law firm and
21 reviewed those records.

22 Following that, at some point they were

1 delivered to the campaign.

2 Q Do you know who asked that the files be
3 delivered to the campaign?

4 A I do not.

5 Q Do you know who, at the campaign, the files
6 were delivered to?

7 A I do not.

8 Q Do you know if Mrs. Clinton had a role in
9 the transfer of the files from the Rose Law Firm to
10 the campaign?

11 A Okay, complicated answer here. I do not
12 know for sure, I believe that she did. And I will
13 tell you why.

14 I went away on a trip in either February or
15 March. I think it was in February. When I came
16 back, late on a Sunday night, 9:00 or 10:00, there
17 was a message on my answering machine at home -- and
18 my family had gone with me -- there was a message on
19 my answering machine at home from Mrs. Clinton asking
20 me to call her as soon as I got the message. And
21 saying that she needed to get -- she -- that the --
22 she didn't need this, but the Whitewater records that

1 I had, the firm had, needed to go to the campaign,
2 and would I call her.

3 As soon as I got that message, of course I
4 tried to reach her, but I could not. She was gone
5 somewhere.

6 The next morning when I came to the office,
7 Sue Kathy Jones came and told me that she had gotten
8 a similar phone call, also on this Saturday. And I
9 am not sure whether her phone call was from Ms. Huber
10 or from Ms. Clinton or somebody else. I don't know
11 who called her, but she had gotten a similar phone
12 call, and she and her husband had loaded up and come
13 down to the firm, to get the records, to deliver them
14 to the campaign. When she came to the firm the
15 records were gone.

16 She didn't know what to do, so she went
17 over to the campaign, which was a block and a half
18 from the law firm, and there the records were. She
19 did not deliver them and I did not deliver them. And
20 how they got there, I don't know.

21 Q Did anyone ever advise you as to how the
22 Whitewater records were transferred from the Rose Law

1 Firm to the campaign?

2 A No.

3 Q Did you ever ask anyone about how the
4 records were transferred?

5 A No. I didn't have any reason to. It
6 wasn't that big a deal at the time.

7 Q Now, during 1991 you attempted to determine
8 the status of the Clintons' investment in
9 Whitewater. Did you ever come to a judgment with
10 regard to the status of their investment in
11 Whitewater?

12 A We -- came to a position where I could
13 accurately describe the real estate investment to
14 them, where it stood.

15 Q And did you advise Mrs. Clinton as to what
16 you believed to be the status of the real estate
17 investment?

18 A Yes.

19 Q What did you tell Mrs. Clinton about the
20 status of their investment in Whitewater Development
21 Corporation?

22 A I told her that we had a pretty good handle

1 on the fact that all the lots had been sold, that the
2 mortgage was indeed being serviced from contract for
3 deed sales, that as near as we could tell, it looked
4 like that if left alone, that would play out. In
5 other words, those contracts for deeds would service
6 the mortgage to finality.

7 And I told her that there were lots and
8 lots of questions that didn't have answers.

9 Q The questions that you told Mrs. Clinton --
10 strike that.

11 Do you recall any of the questions that you
12 raised with Mrs. Clinton?

13 A The main ones were -- I mean, this is
14 difficult. I have tried -- I will try to stick to
15 the main ones, but no stock certificates could be
16 found, no stock record book, no stock minute books.
17 The corporation was a mess. I told her there were
18 incomplete documents, we would plug what holes we
19 could, but the documentary records of the corporation
20 were completely in a shambles. That there was a very
21 curious transaction which had appeared in the real
22 estate records involving something called Ozark Air,

1 which we had learned had involved some sort of a
2 transfer of a number of lots to a guy named Chris
3 Wade in return for an airplane, which made no sense
4 to me at the time. And supposedly as part of that,
5 he had assumed part of the mortgage, although there
6 were no records to that effect whatsoever.

7 Q Who ultimately received the plane, as far
8 as you know? Who ultimately obtained the plane?

9 A Well, I subsequently learned the plane
10 ultimately wound up in Seth Ward's hands,
11 subsequently. Much, much later I learned that.

12 That not only was the mortgage being
13 serviced by the sort of the aggregate of the contract
14 for deeds, but there was an overage there should have
15 been a cash buildup in the relevant accounts, but
16 that somebody was pulling that money out. Those are
17 the main things.

18 Q Did you make any judgments as to who was
19 pulling the money out of the corporation?

20 A As part of my investigation I spoke to a
21 banker up there whose name escapes me right now;
22 called him on the phone. He, without -- without

1 evidence in writing and quite properly so, would not
2 tell me where that money was going.

3 But he, unequivocally, said that money was
4 leaving that account. I never was able to find out
5 where it was going.

6 Q Do you recall the name of the bank -- do
7 you recall the name of the bank at which this banker
8 worked?

9 A I get them confused, I apologize. It is
10 either Citizens Bank, I think it is Citizens Bank of
11 Flippin.

12 Q What was Mrs. Clinton's response when you
13 raised these questions with her?

14 A The other thing that we talked about when I
15 sort of gave her an umbrella overview was, I
16 suggested a couple of courses of action to her to
17 sort of start the ball rolling to try and bring this
18 back into some sort of coherent shape. And I say
19 "this," I am talking about the real estate
20 development in the corporation.

21 And I suggested to her that we might want
22 to take the position that the stock record books were

1 lost and needed to be reconstituted and to write
2 letters to McDougal about that. She suggested that
3 we draft some letters for her review, which we did.
4 But there was never any action taken on that, never
5 any action authorized. And the next words from her
6 was to stop.

7 Q When did Mrs. Clinton ask you to stop doing
8 further work on Whitewater?

9 A I believe it was in October of 1991.

10 Q And did she indicate to you why she wanted
11 you to stop doing work on the Whitewater investment?

12 A She did not. She simply said she had some
13 other things to do and she didn't want to deal with
14 it right now.

15 Q Is it your testimony, you recall speaking
16 with her initially in approximately March '91 doing
17 some work running through July '91, and then she
18 called you October of '91 and said don't do any more
19 work?

20 A What you have to understand, and which I
21 have not testified to you about before is, is that
22 the reason why the work I described as sporadic is

1 that, and this was no surprise to me at the time and
2 there was nothing unusual about it, I couldn't get to
3 Mrs. Clinton to get her to make decisions because of
4 her incredibly busy schedule even back then.

5 Q Did you ask Mrs. Clinton whether you should
6 keep doing work in October of 1991 or did she contact
7 you?

8 A Well, what happened is, is that we got to a
9 point where -- and I can't remember precisely when
10 this was, it was sometime after July, I think, where
11 we felt -- I felt like we were in a position to give
12 her some decent advice. And I began to try to
13 contact her, to set up a time to do that. And I
14 don't recall the specific times, Bob, but somewhere,
15 August, September is when we had the conversation,
16 this is what we found: We need to reconstitute the
17 corporation, let's maybe proceed down this road,
18 okay, drafted letters for her, left messages, called
19 her, came by to see her, she is not there. Then in
20 October, I think the early part of October, she
21 said -- when I finally did talk to her, she said no,
22 I want you all to stop.

1 Q She never indicated why she wanted you to
2 stop?

3 A No, she just said she had some other things
4 to do.

5 Q When was the next time you spoke to
6 Mrs. Clinton about Whitewater?

7 A I think that was the last time.

8 Q So your testimony is you have had no
9 conversation with Mrs. Clinton, between approximately
10 October 1991 and the present, about Whitewater?

11 A Yes. If you go back and look at the record
12 they announced, the governor announced his campaign
13 for Presidency in October 1991. And, as I testified
14 previously, from that point on, she was not much at
15 the firm.

16 Q And during the time when you were at the
17 White House, you didn't have any conversations with
18 Mrs. Clinton about Whitewater Development
19 Corporation?

20 A I did not.

21 Q During the time you were at the White
22 House, did you have any conversation with Maggie

1 Williams about Whitewater Development Corporation?

2 A I did not.

3 Q Bernard Nussbaum?

4 A Yes.

5 Q When was the first conversation you had
6 with Bernard Nussbaum about Whitewater Development
7 Corporation?

8 A I can't recall the specific time. I mean,
9 I just simply do not know, but I made Bernie aware
10 that I had performed legal services for the Clintons
11 and had some knowledge about Whitewater.

12 Q Is this before or after Mr. Foster's death?

13 A Probably after Mr. Foster's death. As a
14 matter of fact, I am certain it was after Vince's
15 death, but I can't remember when, how soon after.

16 Q And since 19 -- since January 1, 1981 --
17 strike that.

18 Since January 1, 1991, have you ever
19 discussed the Rose Law Firm's representation of
20 Madison with Mrs. Clinton?

21 A Since January 1, 1991 to now, have I ever
22 discussed with Mrs. Clinton --

1 Q The Rose Law Firm's --

2 A No.

3 MR. ATKINS: Wait a minute, we are talking
4 about 1991. Wasn't that the year you were doing the
5 work?

6 THE WITNESS: Yes, but he asked if I
7 discussed Madison with her.

8 MR. ATKINS: I'm sorry.

9 BY MR. GIUFFRA:

10 Q Did there come a time in 1993 that you
11 learned that the Rose Law Firm was concerned about
12 certain disbursements that Mr. Hubbell had been
13 compensated for while he was a partner of the Rose
14 Law Firm? Let me rephrase the question.

15 Did there come a time in 1993 when you
16 learned that Mr. Clark and others at the Rose Law
17 Firm were concerned about certain expense items that
18 Mr. Hubbell had been paid for while he was a partner
19 at the Rose Law Firm.

20 MR. KRAVITZ: Bob, you know you spent at
21 least an hour on this subject in Mr. Clark's
22 deposition. It is now 2:45, we have been going since

1 10:00. You have not yet asked a single question
2 about the subject matter of this deposition, which
3 was the November 5, 1993 meeting. We have hearings
4 starting tomorrow morning. This is of such
5 tangential relevance. I remember your argument from
6 Mr. Clark's deposition that this is relevant to
7 Mr. Hubbell's credibility.

8 MR. GIUFFRA: You have taken enough time
9 with the speech, we could probably get an answer.

10 MR. KRAVITZ: Why don't you stop
11 interrupting me because it is important to make my
12 comments since you are probably planning on going
13 into this for an hour. But you guys are constantly
14 saying that you need more time and it is stuff like
15 this, where you waste everybody's time, that has
16 resulted in your not finishing your investigation
17 when you are supposed to be finishing it.

18 MR. GIUFFRA: Do you recall the question,
19 Mr. Kennedy?

20 THE WITNESS: I would like for it to be
21 restated if you don't mind.

22 (The reporter read the record as requested.)

1 THE WITNESS: Bob, the question is -- and
2 you didn't do this on purpose, but the question to me
3 is somewhat inelegant because -- and I am going to
4 answer the question I think you are asking and if I
5 am wrong, just tell me so.

6 In -- I did not know in 1993 of the
7 behavior of Web's that led to his ultimate criminal
8 conviction and subsequent jail term.

9 Did I know there was a problem with
10 disbursements? Yes. Insofar as they related to what
11 we called "the POM matter."

12 BY MR. GIUFFRA:

13 Q And when did you learn that there was a
14 matter with regard to disbursement in connection with
15 the POM matter?

16 A Let me tell you what the POM matter was,
17 because I don't want any confusion between this
18 matter and the other matter which I don't know how to
19 describe on a shorthand basis. POM was a lawsuit
20 that Web undertook. It was an antitrust lawsuit on
21 behalf of a company that was owned by his in-laws.
22 He took it on a contingency basis. He ran up a

1 number -- a sizeable number of costs and expenses in
2 pursuing this lawsuit. And the lawsuit was
3 ultimately lost, which left the firm with a sizeable
4 number of expenses to be eaten. And there were
5 disputes about the quantity of those disbursements,
6 and the fact that they were incurred on the basis
7 they were incurred. That's what I am talking about.
8 I had knowledge of that because that had gone on in
9 1991 and 1992.

10 Q Do you recall it being raised with you in
11 May of 1993?

12 A No. Again, when you say "it," are we
13 talking POM or the other matters.

14 Q Let's do POM first.

15 A No.

16 Q When did you learn of the other, I guess,
17 the RTC related problem with regard to disbursement?

18 MR. ATKINS: I am going to object to that,
19 when you use the words "RTC related." Why don't we
20 refer to it as Mr. Hubbell's theft from the firm.

21 BY MR. GIUFFRA:

22 Q When did you learn of Mr. Hubbell's theft

1 from the firm?

2 A I did not know the particulars of what
3 Mr. Hubbell was alleged to do until press reports
4 surfaced.

5 I ran into Ron Clark in January of 1994 and
6 he told me that Web had serious problems. And when I
7 asked him what they were, he declined to tell me.

8 Q Did you attempt to ascertain from anyone at
9 the Rose Law Firm what those problems were?

10 A I did not.

11 Q Did there come a time when you discussed
12 Mr. Hubbell's -- strike that.

13 Did there come a time when you discussed
14 the conduct that led to Mr. Hubbell's felony
15 conviction with him?

16 A With Mr. Hubbell?

17 Q Yes.

18 A I get the timing as to -- if you -- if you
19 use a sort of linchpin date, the day that he formally
20 pled guilty, not too much before then Web called me
21 and apologized. But this was sometime after his
22 resignation, press reports, all the stuff that

1 transpired about that. He told me he had done wrong
2 things at the firm and he was very sorry.

3 Q You never discussed this matter with
4 Mr. Hubbell in 1993?

5 A No. I did not know that it was going on in
6 1993.

7 Q Let's turn to this November 5, 1993
8 meeting. Now, these are documents bearing Bates
9 numbers 12517 through 12528, those are handwritten
10 notes you prepared of this meeting?

11 A Yes.

12 Q When did you prepare the typed version of
13 your handwritten notes, which bears Bates numbers
14 12529 to 12538?

15 A I think around the middle of 1994.

16 Q Why did you prepare a typed version of your
17 notes?

18 A Because my counsel informed me rather
19 firmly that they could not read my handwritten
20 version.

21 Q And who could not read your handwritten
22 version?

1 A Mr. Castellitto.

2 Q He could not read your handwritten version?

3 A Right.

4 Q And you prepared this document -- strike
5 that.

6 Did anyone assist you in preparing this
7 typed version of your notes?

8 A No.

9 Q Did you provide a typed version -- copy of
10 the typed version of your notes to anyone at the
11 White House?

12 A No, just to my counsel.

13 MR. KRAVITZ: Did you actually type them
14 yourself?

15 THE WITNESS: Yes. Which is why I did such
16 a poor job.

17 BY MR. GIUFFRA:

18 Q Were you still at the White House when you
19 typed these notes up?

20 A Was it in '94? Yes.

21 Q Do you recall approximately when you would
22 have typed these up?

1 A As I say, it was the middle of 1994. I
2 don't remember precisely when.

3 Q Have you ever received any comments with
4 regard to the typed version of your notes from
5 anyone?

6 MR. KRAVITZ: Other than his counsel?

7 BY MR. GIUFFRA:

8 Q Other than your counsel?

9 A Are you excluding this press commentary?

10 Q I will rephrase the question.

11 A That's a very serious answer on my part.
12 The comments.

13 Q I agree it is poorly phrased.

14 If you know, was a typed version of your
15 notes circulated to any of the other attendees at
16 this meeting?

17 A As I've testified earlier, the typed
18 version of these notes was prepared at the request of
19 my counsel and delivered by me, solely to my
20 counsel.

21 Q Okay. Do you know whether your counsel
22 spoke to anyone at the White House about these notes?

- 1 A You will have to ask him about that.
- 2 Q Did he advise that you he spoke with anyone
- 3 at the White House about these notes?
- 4 A I am not going to -- Bob, I think you can
- 5 respect this. I am not talk about my conversations
- 6 with my counsel. I am not waiving any privilege.
- 7 Q And just so that we can set the record
- 8 straight, to the best of your recollection you had
- 9 this meeting with Mr. Kendall, the meeting on the 4th
- 10 with Mr. Kendall and your luncheon with Mr. Kendall?
- 11 A That's correct, and I probably bumped into
- 12 him some in the White House under circumstances that
- 13 I would not call a meeting.
- 14 Q And you may have had some telephone
- 15 conversation with Mr. Kendall?
- 16 A Just the one that I testified about
- 17 earlier.
- 18 Q Okay. Did you have any other meetings with
- 19 anyone from Mr. Kendall's law firm?
- 20 A No.
- 21 Q Did you speak on the phone with anyone from
- 22 Mr. Kendall's law firm?

- 1 A No, I don't think so.
- 2 Q Did you, in 1993-1994, speak to Mr. Lyons
- 3 about anything having to do with Whitewater or
- 4 Madison?
- 5 A Time frame again?
- 6 Q '93-94.
- 7 A Well, Mr. Lyons was at this meeting.
- 8 Q Other than at this meeting?
- 9 A No.
- 10 Q What was your understanding of the purpose
- 11 of this November 5 meeting?
- 12 A The purpose of the November 5 meeting was
- 13 to get Mr. Kendall sort of up to speed on Whitewater
- 14 matters and to sort of come up with an appropriate
- 15 division of labor between the White House and the
- 16 President's personal lawyers.
- 17 Q Do you remember who called the meeting?
- 18 A I don't know who called the meeting.
- 19 Q Who notified you of the fact that there
- 20 would be a meeting?
- 21 A Bernie did.
- 22 Q What did Bernie say to you about this

1 meeting before you attended the meeting?

2 A Simply that there was going to be a meeting
3 at Kendall's office to get him up to speed and I
4 needed to come.

5 Q Did Mr. Nussbaum indicate to you why you
6 needed to attend this meeting?

7 A No.

8 Q Did you have any understanding as to why
9 you were being invited to attend this meeting?

10 A I presume it came from the fact that I had
11 previously told him earlier that I had knowledge
12 about Whitewater.

13 Q Do you know whether the President or First
14 Lady were aware of this meeting?

15 A I have no idea.

16 Q Did you speak to the President or First
17 Lady, prior to this meeting, about the meeting or the
18 issues that were to be discussed at the meeting?

19 A I did not.

20 Q Did you speak to the President or First
21 Lady, after this meeting, about the meeting or the
22 issues that were discussed at the meeting?

1 A I did not. Excuse me. I did not.

2 Q Following this meeting, did you discuss
3 Whitewater or Madison related issues with the First
4 Lady?

5 A I did not.

6 Q Following this meeting, did you discuss
7 Madison or Whitewater issues with the President?

8 A I did not.

9 Q Do you know whether Mr. Blair was invited
10 to attend this meeting?

11 A I do not know.

12 Q Do you know whether Mr. Hubbell was invited
13 to attend this meeting?

14 A I don't know.

15 Q Following this meeting, did you discuss
16 this meeting, or the issues that were discussed, with
17 Mr. Hubbell?

18 A No, I did not.

19 Q Following this meeting, did you discuss the
20 meeting, or the issues that were discussed at the
21 meeting, with Ms. Thomases?

22 A No, I did not.

1 Q Following this meeting, did you discuss the
2 meeting, or the issues that were discussed at the
3 meeting, with Maggie Williams?

4 A I did not.

5 Q Following the meeting, did you discuss the
6 meeting or the issues that were discussed at the
7 meeting with anyone?

8 A No, I don't recall doing so. My hesitation
9 is very simple. I am trying to remember if in some
10 form or fashion it came up in these daily counsel
11 meetings, but I don't recall it doing so.

12 Q So it would be your testimony, you don't
13 recall any discussion of this meeting at the daily
14 counsels meeting, the meetings of the White House
15 staff?

16 A No.

17 Q Who ran this meeting?

18 A Mr. Kendall.

19 Q Was there any sort of an agenda for this
20 meeting?

21 A No. By that, I mean, I assume you mean
22 some sort of printed agenda or blackboard agenda or

1 something like that. No.

2 Q Were you given any materials in advance of
3 the meeting?

4 A No.

5 Q Do you recall whether anyone brought any
6 materials with them to the meeting?

7 A I think that Bruce Lindsey had some
8 materials he brought, and I think that Jim Lyons did
9 as well.

10 Q Do you recall what materials Mr. Lindsey
11 brought to the meeting?

12 A I believe he had some copies of some
13 canceled checks.

14 Q Did he bring anything else with him to the
15 meeting, that you can recall?

16 A No, I think that's it.

17 Q Did Mr. Lyons bring anything with him to
18 the meeting?

19 A I believe he had a file or files with him.

20 Q Do you recall what those files contained?

21 A No. With one caveat he did circulate to
22 everybody a company's list or a list of entities

1 involved in this matter.

2 Q When you say "this matter," do you mean
3 Whitewater Development Corporation or Madison
4 Guaranty?

5 A Whitewater Development, primarily.

6 Q Was there a list of entities having --
7 strike that.

8 Were there entities not involved with
9 Whitewater Development Corporation on this list he
10 gave everyone?

11 A I can't answer that.

12 Q Do you recall whether anybody other than
13 yourself took notes at the meeting?

14 A I don't believe anybody else did.

15 Q Were you the person who was assigned to act
16 as the scrivener at this meeting?

17 A Nope, just an energetic guy. No, Bob, I
18 was not tasked do that. I just did it.

19 Q Do you recall the time of the meeting; when
20 it started?

21 A Really, I can't remember. As I previously
22 testified in open hearing, it lasted a little over a

1 couple of hours. And I want to say it was early
2 afternoon.

3 Q Was anyone contacted by phone or fax during
4 the meeting?

5 A No, I don't believe so.

6 Q At the conclusion of the meeting, was
7 anyone asked to contact Mr. Blair?

8 A No, I don't believe so.

9 Q Was anyone asked to contact Mr. Hubbell?

10 A No, I don't believe so.

11 Q Was anyone contacted to brief the President
12 about the meeting?

13 A Not to my knowledge, no.

14 Q Was anyone asked to brief the First Lady
15 about the meeting?

16 A Not my knowledge, no.

17 Q Was anyone asked to contact anyone
18 following this meeting, that you can recall?

19 A That's a difficult question to answer. The
20 technical answer is no, but, you know, the purpose of
21 the meeting was to get Kendall up to speed so he
22 could start doing his job. So I presume he went out

1 and started to do his job.

2 Q You mentioned one of the purposes of the
3 meeting was to divide responsibilities between
4 Mr. Kendall and the White House counsel's office. Do
5 you remember that testimony?

6 A Yes.

7 Q Was any decision made at the meeting with
8 regard to how responsibilities would be divided with
9 regard to Whitewater matters between Mr. Kendall and
10 the White House counsel's office?

11 A Not in terms of specifics, but it was -- it
12 was clear that things had reached a point where
13 personal counsel was going to have to get involved
14 and undertake the lion's share of it. And it was
15 also clear that the White House was going to have to
16 continue to play a role. And so the thesis was to
17 get Mr. Kendall up and running, let him start doing
18 his job and for the White House, through the White
19 House counsel's office, to cooperate in that effort.

20 Q Why was it clear that Mr. Kendall -- strike
21 that.

22 Why was it clear that the White House

1 counsel's office could no longer handle the lion's
2 share of the efforts with regard to Whitewater?

3 A Things were beginning -- things were
4 beginning to reach a point where it was beginning to
5 be a crescendo of articles in the press about various
6 investigations which were commencing, and it -- it
7 had begun to rise to a level where you could no
8 longer respond in an official capacity. It was
9 getting into an area where private counsel for the
10 Clintons was absolutely appropriate.

11 Q Do you recall any discussion, either at or
12 prior to this meeting with respect to the
13 appropriateness of the White House counsel's office,
14 with regard to Madison/Whitewater matters?

15 A No. There was always a sensitivity in the
16 White House counsel's office, from day one, about not
17 blurring the roles of official/personal business,
18 except where necessities required it. So there was
19 that sensitivity, but I don't recall specific
20 discussions about this point.

21 Q Do you recall any instances where
22 necessities required blurring the roles between

1 official and private?

2 A Well, let me give you a specific -- I will
3 give you two specifics.

4 Formation of a blind trust for the Clintons
5 required interaction of personal and public, filing
6 of tax returns requires interaction of personal and
7 public.

8 Q Did Mr. Nussbaum ever express to you any
9 concern about the extent of the White House counsel's
10 office involvement in matters relating to Madison or
11 Whitewater?

12 A No.

13 Q If we could just take a look at the
14 handwritten notes at 12517, first page.

15 A Okay.

16 Q What does the check mark next to
17 Mr. Eggleston's name signify?

18 A I don't know.

19 Q Do you recall whether Mr. Eggleston was
20 given any specific instructions at or after this
21 meeting?

22 A I don't believe so. As I previously

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1 testified, I don't remember anybody being given any
2 specific instructions.

3 Q Do you recall any discussion at this
4 meeting of the need to prepare a chronology of either
5 Whitewater or Madison related events?

6 A It seems like to me, without recalling the
7 specifics, that that was something Kendall thought
8 would be appropriate.

9 Q And did Mr. Kendall indicate who would
10 prepare this chronology, whether it would be a joint
11 project?

12 A I don't recall.

13 Q Do you recall whether anyone was directed
14 to prepare a chronology at the meeting?

15 A As I said, I don't think anybody was given
16 specific tasks at this point.

17 Q When you wrote down points 1, 2, 3 and 4 at
18 the top of your notes, was that -- do you recall who
19 said that?

20 A Mr. Kendall did.

21 Q And Mr. Kendall was indicating what the
22 purpose of the meeting was?

1 A Well, it's more sort of tasks that he
2 foresaw that he was going to start needing to do.

3 Q Is it your recollection that these were all
4 tasks that Mr. Kendall was going to perform, one,
5 two, three and four?

6 A Yes, well, with the caveat of, like three
7 and four, there would have to be White House
8 involvement because all the press requests were
9 coming into the White House.

10 Q But it was your understanding Mr. Kendall
11 would be the one gathering the facts and preparing
12 chronologies?

13 A Primarily, yes.

14 Q Do you recall any discussion of any role by
15 anyone at the White House in terms of gathering the
16 facts?

17 A Well, the short answer is, is that a lot of
18 the facts were coming in through the press -- or
19 allegations, if you will. But some of them turned
20 out to be true and some of them weren't. Most of
21 them weren't.

22 But, clearly there had to be communication

1 between the White House and Mr. Kendall as press
2 allegations came in.

3 Q This reference to try to find out what's
4 going on in the investigation, what do you recall
5 about that discussion?

6 A Well, the word is actually
7 "investigations," plural. That's one of more than
8 several mistakes when I typed it up, but that was
9 just a task Mr. Kendall was going to undertake doing
10 his job.

11 Q Your recollection was that this task would
12 be performed solely by Mr. Kendall?

13 A Yes.

14 Q What's the basis of your belief that only
15 Mr. Kendall would attempt to find out what was going
16 on with regard to investigations?

17 A Because that's what he was being employed
18 to do.

19 Q Now, as of this November -- strike that.

20 At this November 5 meeting, was there any
21 discussion of the fact that persons from the White
22 House had met with persons at the Treasury Department

1 with regard to Whitewater Madison issues?

2 A No, I don't recall such discussion.

3 Q Were you aware of the fact that, on October
4 14, 1993, Mr. Nussbaum, Mr. Eggleston, Mr. Gearan and
5 Lindsey and Sloan had met with Mr. DeVore and
6 Ms. Hanson and Mr. Steiner?

7 A The only thing that I knew sort of
8 independently, Bob, was, if I remember correctly, I
9 had received a copy of a memo that Bruce had written
10 about a -- a memo to the file about a situation with
11 Mr. DeVore. And I think, prior to this time, there
12 were press reports about these contacts. If I am
13 wrong about that, my first knowledge about -- okay,
14 my first knowledge about these contacts would have
15 been from the press. Okay.

16 And so, if the press reports had not
17 occurred prior to this meeting, I didn't know it at
18 the time.

19 MR. KRAVITZ: It may refresh your memory,
20 the memo that you are referring to, Mr. Lindsey's
21 memo to the file was dated October 20, 1993.

22 And I am certain that there were no press

1 reports about the White House-Treasury meetings as of
2 November 5, 1993.

3 THE WITNESS: As I testified, apart from
4 the DeVore memo to the file, I had no knowledge of
5 any Treasury -- what has been grouped together as
6 White House-Treasury contacts, and they were not
7 discussed at this meeting.

8 MR. KRAVITZ: I don't know the Bates number
9 of that document, but it does have your name as a cc.

10 BY MR. GIUFFRA:

11 Q I think you testified previously you
12 received a copy of that document?

13 A Yes, I did.

14 Q I will take you through the notes.

15 Midway down the first page it says, "HRC
16 representation of Madison -- not much activity
17 representing people before agencies to RLF letters.
18 Beverly Bassett one, Madison two PP preferred
19 stock." Okay, what does "PP" refer to?

20 A Private placement.

21 Q And during this portion of the meeting, did
22 Mr. Lindsey do most of the talking?

1 A Yes.

2 Q Did he do most of the talking the entire
3 meeting or did there come a time when someone else
4 did some talking?

5 A Bruce did most of the talking for most of
6 the meeting, but there came a time when, sort of, Jim
7 Lyons took over.

8 Q So it would have been Mr. Lindsey who
9 raised the issue of Mrs. Clinton's representation of
10 Madison that started the meeting?

11 A I am sort of balking at the phrase "raising
12 the issues." He provided background here.

13 Q Do you know why Mr. Lindsey provided
14 background about Mrs. Clinton's representation of
15 Madison early in the meeting?

16 A Because it had -- it was an issue, much as
17 Whitewater -- it was an issue during the campaign.

18 Q Did you have any understanding at the time
19 meeting that this was a matter of serious concern?

20 A No. It was just part of the landscape.

21 Q What do you recall Mr. Lindsey saying about
22 Mrs. Clinton's representation of Madison?

1 A Basically this right here.

2 Q Were you attempting to take fairly verbatim
3 notes?

4 A No, obviously they are not verbatim. I
5 tried to hit the high points.

6 For your information, I was injured in a
7 car wreck in 1988, serious injury to my right hand
8 and arm and I don't -- as my handwriting indicates,
9 although it was bad, as anyone would tell you, before
10 my car wreck.

11 Q I don't think it is that bad, actually.

12 A The short answer is it is difficult for me
13 to take notes and I don't do very well at it, but
14 (indicating) a real bad injury.

15 Q You attempted to be as accurate as possible
16 in taking these notes?

17 A Yes. But --

18 Q That would be normal -- practice would be
19 to take accurate, contemporaneous notes?

20 A As best I am able.

21 Q It is your testimony, you have no knowledge
22 as to whether the question of Mrs. Clinton's

1 representation of Madison was raised at this October
2 14 meeting involving Ms. Hanson, Mr. DeVore and
3 Mr. Steiner?

4 MR. KRAVITZ: Say that again.

5 THE WITNESS: Are you --

6 BY MR. GIUFFRA:

7 Q Do you have any understanding as to whether
8 Mrs. Clinton's representation of Madison was raised
9 during the October 14, 1993 meeting?

10 A I have no knowledge of that.

11 Q Now, there is a reference about
12 three-quarters of the way down the first page of your
13 typewritten version of the notes, where it says
14 "RLF" -- strike that.

15 "RLF answered questions, did
16 reconstruction," what does that indicate to you?

17 A That indicates to me that Bruce said that
18 the Rose Law Firm answered questions during the
19 campaign and did a reconstruction of Whitewater.

20 Q Was it a reconstruction of Whitewater or a
21 reconstruction of the Rose Law Firm's representation
22 of Madison?

1 A He is referring to the work I did. This
2 has to do with the reconstruction of the Whitewater
3 investment.

4 Q You never prepared a written analysis of
5 the work you did with regard to Whitewater?

6 A Did I? No. There were some memos prepared
7 by Sue Kathy Jones setting out sort of what she had
8 discovered from the real estate records. And
9 evidencing some conversations that she had had, but
10 did I, no.

11 Q Whatever happened to those memos?

12 MR. ATKINS: Ultimately they were produced
13 to you.

14 BY MR. GIUFFRA:

15 Q So those memos are the memos that we've
16 received?

17 A Yes. I mean, they were delivered to the
18 campaign and produced to you-all, so Alden says.

19 MR. ATKINS: I might add, they have been
20 produced to everyone else who has asked.

21 MR. KRAVITZ: Bob, you and I are probably
22 the only people in the world who haven't seen them.

1 MR. GIUFFRA: Probably, so many documents
2 to read.

3 BY MR. GIUFFRA:

4 Q Now, when Mr. Lindsey was providing this
5 background, did he refer to any notes that he had in
6 prior conversation with other people?

7 A All I remember him having were these copies
8 of canceled checks, but it is possible he was
9 referring to some sort of source document. I just
10 don't recall, Bob.

11 Q Do you know a man named Richard Mayes?

12 A M-a-y-e-s?

13 Q Yes.

14 A I know a Richard Mays with a last name
15 that's not spelled that way.

16 Q How is his name spelled?

17 A M-a-y-s.

18 Q He is an African-American lawyer from
19 Little Rock?

20 A Yes.

21 Q Do you know whether Mr. Mays has -- do you
22 have any knowledge of any meetings that Mr. Hubbell

1 had with Mr. Mays in 1993?

2 A I do not.

3 Q Now there is a reference at the bottom of
4 the first page of these typewritten notes which says
5 "Clinton had taken the deductions that WWDC had not
6 taken tax advantage of \$2500, not repaid government
7 yet-promise." What does that refer to?

8 A It refers to what's talked about in
9 shorthand as the Lyons report, and this is sort of a
10 brief summary of what the Lyons report come up with.

11 Q And was there discussion of the fact that
12 the Clintons had obtained a tax advantage of \$2500,
13 that they needed to repay the government but had not
14 done so?

15 A Bruce is reciting history here. The
16 Clintons had promised at that point to, you know,
17 whatever they had wrongfully, gotten, advantage --
18 whatever they had wrongfully gotten they would pay
19 back. And at this point in time, that promise was
20 out there, but it hadn't been done yet. I don't
21 think it had been calculated yet.

22 Q This was a promise that was made during the

1 1992 campaign?

2 A Yes, and I think subsequently as well.

3 Q Now the reference immediately above that to
4 Beverly Bassett, what do you recall about the
5 discussion of Beverly Bassett at the meeting?

6 A Again, this is basically it right here.

7 Bruce is giving history, and it's basically that she
8 had given authority for Madison to do both things,
9 and Bruce is talking about, you know, the perception
10 about Beverly Bassett.

11 Q That there was too much coziness between
12 Beverly Bassett --

13 A All that other stuff. Recently appointed
14 Beverly Bassett as securities commissioner, and then
15 brother Earl and strong supporter in allegations of
16 too much coziness.

17 Q Did Mr. Lindsey indicate that he had spoken
18 to Ms. Bassett or Archie Schaffer at this meeting?

19 A No, did he not.

20 Q And do you know whether Mr. Lindsey
21 subsequently spoke to Ms. Bassett or Mr. Schaffer
22 about Madison Whitewater matters?

1 A I do not know.

2 Q In providing the background summary, did
3 Mr. Lindsey indicate he was the source of the
4 information that he was providing to everyone at the
5 meeting?

6 A Not unless it is reflected in the notes,
7 no. I mean, in fairness, nobody questioned or asked
8 him about it.

9 As you know from the notes, Bob, in many
10 cases he is talking about contacts from press and
11 press reports.

12 Q But unless there is a reference to -- for
13 example, on page 12531, the top of the page there is
14 a reference to Jeff Gerth. So that would be an
15 instance in which Mr. Lindsey made an express
16 reference to a reporter.

17 A Yes.

18 Q Throughout the rest of the background
19 summary that he was providing he didn't say, well,
20 this information comes from The New York Times, this
21 information comes from The Washington Post, this
22 information comes from The Arkansas Democrat?

1 A Sometimes he did, yes, and sometimes he
2 just said press.

3 Q But when he did so, you would attempt to
4 write it down in the notes?

5 A I am sure I didn't get it all the time, but
6 it is in here, right.

7 Q Now, the bottom of the page there is a
8 reference to FBI issuing subpoenas. And then there
9 is a reference "also the day that VF killed himself"
10 and it says below that "factor could close." What do
11 you recall about that at the meeting?

12 A Bruce was remarking upon the coincidence
13 that the day that Vince killed himself there were
14 allegations -- that it had been reported in the press
15 at this time that the subpoena had been issued for
16 the Hale records. And that this coincidence was a
17 factor in a lot of press speculation and whatnot.

18 Q During this meeting, did you discuss the
19 fact that Mr. Coleman contacted you in the summer of
20 1993?

21 A No, sir, I don't recall doing so.

22 Q Do you have any knowledge of the fact that

1 after this meeting on November 17, Mr. Eggleston
2 obtained certain information from the Small Business
3 Administration regarding David Hale?

4 A Seems like in a previous deposition, Bob,
5 you guys showed me some transmittal letters back and
6 forth with regard to information regarding Hale. But
7 I don't -- I don't remember discussion of that, other
8 than, I mean, I had never seen them before. Until
9 you showed them to me, I had no knowledge that that
10 had gone on.

11 Q On page 12535.

12 A You are going to have to help me here
13 because on my copy --

14 Q Second page.

15 A -- some of the numbers were cut off. Go
16 ahead.

17 Q Am I correct, this reflects what
18 Mr. Lindsey was recounting for those assembled with
19 regard to certain allegations that had been made
20 about President Clinton; am I correct?

21 MR. KRAVITZ: You are referring to the
22 entire page?

1 Q Let me see if I can focus you in. I
2 apologize.

3 MR. CASTELLITTO: No, no, speed it.

4 MR. GIUFFRA: I am trying to.

5 BY MR. GIUFFRA:

6 Q Let's go to the top of the page, it says
7 "ask for records of Capital Services Management --
8 SBIC." Can you tell me what that referred to?

9 A Well, the subpoena was requesting the
10 records of Capital Service Management, which was an
11 SBIC.

12 Q Then further down there is a reference
13 where it says "Clinton: Encourage loan to McDougal
14 and JGT wife, CSM made loans to JGT." What does that
15 refer to?

16 A Well, you can't deal with it on its own.
17 What this is talking about is, is what Hale was
18 saying, trying to fend off or lessen the impact of
19 his indictment, it is what he was claiming.

20 Q Okay, there is a discussion where it says
21 III, it says "RTC referral W/R/T McDougal." What is
22 "W/R/T McDougal"?

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1 A "With regard to."

2 Q What discussion do you recall at the
3 meeting about an RTC referral with regard to
4 McDougal?

5 A Well, there are several instances in these
6 notes about a discussion of RTC referrals. And
7 primarily what I remember at this point is what's set
8 forth on the page here, that the referral -- there
9 were four campaign checks: April of '85, "BC" is
10 Bill Clinton, "personally" that means that some of
11 the checks were written to Bill Clinton personally, I
12 think "campaign committee's" means that some others
13 were written to the campaign committee. Then three
14 checks were written on Madison, all \$3000. Fourth
15 check written on McDougal, personally signed by Susan
16 McDougal.

17 Q Did Mr. Lindsey indicate at this meeting
18 the basis for the information that he conveyed to
19 those assembled with regard to this RTC referral?

20 A Came from the press.

21 Q And how do you know that this information
22 came from the press?

1 A Well, you have to go later on in the notes,
2 I think it is 12534, we talk again about where it
3 says "examiners McDougal Charles Peacock" and that
4 reference there.

5 Q What about that reference leads you to
6 believe that this information came from press
7 accounts?

8 A If you look up in the middle of the page,
9 it makes reference to "grand jury indicted Hale,
10 press has continued grand jury investigation and
11 talks about the RTC." And that's what these
12 referrals are.

13 Q But you don't recall Mr. Lindsey discussing
14 the fact that the information he was conveying, set
15 forth on page 12530, which is the second page of your
16 typewritten notes, came from the press?

17 A Yes, I do think that I said that this stuff
18 here had come from press inquiries. And that he
19 had -- if I remember correctly, he had undertaken to
20 get these checks, copies of them, anyway.

21 Q And you recall him discussing that at the
22 meeting?

1 A Which part?

2 Q The fact that he had obtained this
3 information from the press.

4 A Yes.

5 MR. KRAVITZ: I think what Mr. Kennedy just
6 said is much of the information came from press
7 inquiries, and that Mr. Lindsey had then obtained the
8 canceled checks; he didn't say where from, but I
9 think that probably should be the next question.

10 MR. GIUFFRA: Where he obtained the
11 checks?

12 MR. KRAVITZ: Right.

13 BY MR. GIUFFRA:

14 Q Where did Mr. Lindsey say he obtained the
15 checks?

16 A I don't know. I don't know where he got
17 the checks from. I mean, I can guess, but I don't
18 know.

19 Q Now, in your notes you have a reference to
20 Les Patten. Then there is a discussion of David
21 Hale.

22 A I think this is simply that somebody

1 started to talk about Les Patten and then somebody
2 raised a Hale question and we got back into Hale
3 again.

4 Q Now, what's typed on the page 12530 below
5 David Hale, is this what Hale alleges with regard to
6 Governor Clinton?

7 A Yes, these were the allegations that Hale
8 was making.

9 Q And the reference to "shopping malls,"
10 Clinton says "do you know what bitch Susan did with
11 the money sed." What does that refer to?

12 A One of the allegations that Hale had made
13 was that one of his contacts was Clinton -- one of
14 his contacts with Clinton was at a shopping mall,
15 where Clinton had come up to him and said, "do you
16 know what that bitch Susan had done with the money,"
17 and "sed" is me saying "said," and it is shorthand
18 for s-a-i-d. That's an allegation that Clinton had
19 said that, and it is just poor note taking on my
20 part.

21 Q Turn to the next page, 12531.

22 MR. KRAVITZ: Can I ask a follow-up? The

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1 allegations on page S 12530 that you testified about
2 were supposedly being made by David Hale. Am I
3 correct that Mr. Lindsey was telling those assembled
4 at the meeting that Mr. Gerth had told him that Hale
5 was making these allegations?

6 THE WITNESS: Yes.

7 MR. KRAVITZ: So Mr. Lindsey reported he
8 knew this information from a reporter as opposed to
9 from any other source.

10 THE WITNESS: That's what he is saying, but
11 there had been, like, other pressure points about
12 this prior to this time.

13 BY MR. GIUFFRA:

14 Q Did you chime in and say you had spoken to
15 Mr. Coleman and Mr. Coleman had indicated --

16 A I don't recall doing so. I mean, it is
17 entirely possible, Bob, that Bruce could have said,
18 you know, Coleman called Kennedy and I nodded or
19 something like that. But I don't recall chiming in
20 and saying Randy Coleman had called me about this.
21 There was no need to. It had already been in the
22 press, Hale was indicted already.

1 MR. GIUFFRA: Let's take a break.

2 (Recess.)

3 BY MR. GIUFFRA:

4 Q In your handwritten notes you have written
5 in a number of lines, for example, on page -- one of
6 your notes 12517 and then on page 12519 there is
7 three lines. What is your practice with regard to
8 drawing lines when you take notes, to change the
9 subject?

10 A Trying to get there. Usually trying to
11 indicate that we shifted to a subject matter that, as
12 the notes go on to indicate, this was not necessarily
13 an orderly discussion.

14 Q Is the discussion on top of page 12531 of
15 the typed notes where it says, "Steve Smith filed for
16 BR, bought Bank of Kingston with McDougal, McDougal
17 in business with JGT-Madison JWF." What does that
18 discussion refer to?

19 A It is more background information. Steve
20 Smith is currently a law professor at the University
21 of Arkansas, and he was a partner with McDougal when
22 McDougal bought the Bank of Kingston. And the last

1 reference is that McDougal had done business with Jim
2 Guy Tucker and J. William Fulbright. That's what
3 "JWF" means -- was in some of Tucker's business
4 deals or Madison's business deals.

5 Q Do you recall how Mr. Smith's name came up?

6 A Just in terms of bankruptcy.

7 Q Do you recall why it came up, the name?

8 A No, I don't, other than as part of the
9 background.

10 Q Was there any mention of the fact that he
11 was named in RTC criminal referrals?

12 A No.

13 Q Was there any discussion of a Steven Smith
14 loan, with Capital Management Services, of \$65,000?

15 A No.

16 Q Any discussion of McDougal Tucker Smith
17 Corporation?

18 A It may be on the ownership thing that
19 Lyons, I think, circulated around, but I don't recall
20 any specific discussion of that.

21 Q Okay, now below that entry it says,
22 "McDougal: 'Powers of attorneys' not get info

1 needed, get more involved -- wind down. Only lines
2 of communication through Sam Heuer. Arrange for 50
3 percent interest Jim Blair, under line." What does
4 that discussion refer to?

5 A What I believe it refers to is that there
6 had been a Washington Times story about powers of
7 attorney, I believe, prior to this meeting. But what
8 the first total reference means is that the Clintons
9 get the information that was needed to make head or
10 tails out of Whitewater. And that they had tried to
11 get more involved so that they could wind it down or
12 liquidate it. But they were having trouble with
13 McDougal, opening lines of communication with Sam
14 Heuer, and they were trying to arrange for sale of
15 the interest, and Blair's name comes up.

16 Q Do you recall anything further about the
17 fact that the only lines of communication to
18 Mr. McDougal were through Sam Heuer?

19 A No. That's basically it.

20 MR. GIUFFRA: Let me show you a document,
21 let's mark it as Exhibit 1.

22 (Kennedy Exhibit 1 identified.)

1 MR. GIUFFRA: We received this by fax from
2 Mr. Lyons's attorney.

3 BY MR. GIUFFRA:

4 Q Is this the document you were referring to
5 before?

6 MR. CASTELLITTO: Break for a second.
7 (Witness conferred with counsel.)

8 THE WITNESS: Okay.

9 BY MR. GIUFFRA:

10 Q Was this the document that Mr. Lyons
11 referred to during the course of this November 5
12 meeting?

13 A I believe that it's one of the documents
14 that he was referring to.

15 Q What were the other documents that
16 Mr. Lyons was referring to?

17 A Well, I am not sure. This document --
18 although it's got some stuff on it I have not seen
19 before, but this document is sort of what he
20 circulated around.

21 Q At the meeting?

22 A Yes.

1 Q He made a photocopy of it?

2 A Do what?

3 Q He made a photocopy of it?

4 A I believe so, yes.

5 Q Do you recall what was purportedly
6 reflected in this document?

7 A Well, it's sort of an organizational chart
8 tying entities back in to all the basic allegations
9 surrounding "Whitewater."

10 Q Do you recall what the reference at the
11 very top, where it says something "financial Seth
12 Ward," and I can't read the next --

13 A I think that next word is "airplane." I
14 think. But I am having as much trouble as you are,
15 but I think that next word is "airplane."

16 Q It says "Madison Financial Seth Ward
17 airplane"?

18 A I believe so.

19 Q Yes. I think you are right.

20 You mentioned before, this reference,
21 "McDougal: Powers of attorney," was from The
22 Washington Times. What is the basis of your memory

1 of the fact that this came from The Washington Times?

2 A Because I just have a memory of things like
3 a big front page. They had -- I don't know if the
4 word photocopy is correct, but they reproduced this
5 letter on Rose Firm letterhead on the front page and
6 it just stuck in my memory.

7 Q Have you seen the documents that the White
8 House released, as well as some press articles? It
9 was a package of materials that were released by the
10 White House at the same time your notes were
11 released.

12 A Yes, I got them from my lawyer, yes.

13 Q You reviewed those in advance of today's
14 deposition?

15 A I went through them once, yes.

16 Q And did you also obtain a copy of the
17 annotated version of your notes that the White House
18 released that had a key on the left-hand margin to
19 the documents and press articles that the White House
20 released?

21 A Are you saying a key on the left-hand
22 margin?

1 Q I believe so.

2 MR. KRAVITZ: I actually think it was the
3 right-hand margin.

4 BY MR. GIUFFRA:

5 Q Strike that. Yes, on the right-hand
6 margin.

7 A This one (indicating) yes, I also got that
8 from my counsel.

9 MR. GIUFFRA: Off the record.

10 (Discussion off the record.)

11 BY MR. GIUFFRA:

12 Q And you've reviewed the key and the
13 documents?

14 A I have not reviewed the key. I have not
15 tried to tie the documents back into the key. But I
16 didn't go through the document, but I did go through
17 the document package.

18 Q The bottom of page 42531 where it says
19 "Blair could have knowledge, could be source of
20 money to allow McD to purchase stock." What does
21 that refer to?

22 A That Blair could have knowledge about the

1 transfer of the sale of the Clintons' stock to
2 McDougal and that he could have been the source of
3 the money for McDougal to buy that stock.

4 Q Who disclosed this information at the
5 meeting of November 5, 1993?

6 A I think this is Bruce, that he is
7 speculating.

8 Q Is Bruce speculating or stating fact?

9 A Speculating.

10 MR. KRAVITZ: I think the use of the word
11 "could" is consistent with that.

12 BY MR. GIUFFRA:

13 Q If you could, just immediately above the
14 reference to Mr. Blair it says 3/4 times and then it
15 says "Heuer, Blair contact Heuer, have one involved
16 with WF to try to arrange sale." And I guess it also
17 says "2-3/1992." What does this indicate to you?

18 A Well --

19 Q And please refer to your handwritten
20 notes.

21 A The handwritten notes are better because I
22 couldn't type this in a way that made sense.

1 MR. KRAVITZ: What page in the handwritten
2 notes?

3 MR. GIUFFRA: 12520.

4 THE WITNESS: 12520.

5 What I recall that this meant is that
6 they -- that there had been three to four contacts,
7 through Heuer, to try to effect a resolution of
8 McDougal/Clinton ownership of Whitewater.

9 BY MR. GIUFFRA:

10 Q And that was between Blair and Heuer or
11 between Foster and Heuer?

12 A Unknown. I don't recall exactly who was
13 supposed to have made these contacts. The reference
14 underneath it to 2-3/92 means February-March 1992,
15 there was another attempt. Oh, you have one
16 attempt. Then "Blair contact Heuer involved with
17 Vince Foster to try to arrange sales." I don't know
18 about the three to four times reference, but I
19 believe the one attempt refers to the Blair contact
20 in '92.

21 Q I would like to show you a document bearing
22 Bates numbers DEK 004360 through 4362. This is a

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1 memorandum to Whitewater Development Corporation file
2 from Vincent Foster, and it is dated December 30,
3 1992. Have you ever seen that before?

4 A The first time I saw this was in the
5 document package I received from my counsel, but I
6 have seen it before.

7 Q You had seen it previous to that?

8 A No. That's the first time I have seen it.
9 I have seen it previous to today, but that's the
10 first time.

11 Q Do you recall any discussion of this
12 memorandum at the November 5 meeting?

13 A No.

14 Q Now, the committee has received a copy of
15 this memo from the Rose Law Firm indicating that it
16 was retrieved and printed on November 8, 1993,.

17 Do you have any knowledge with regard to
18 the retrieval of this document.

19 MR. KRAVITZ: Say that again.

20 THE WITNESS: Say what?

21 MR. GIUFFRA: We received another version
22 of this document indicating it was retrieved and

1 printed on November 8, 1993, and Alden can testify.

2 MR. ATKINS: That's correct.

3 THE WITNESS: Will you restate your
4 question? Are you saying do I now have knowledge of
5 it?

6 BY MR. GIUFFRA:

7 Q The committee received a copy from the Rose
8 Law Firm of this memorandum indicating someone
9 printed it off a computer file on November 8, 1993
10 three days after this meeting. Do you know anything
11 about the process by which this memorandum was
12 retrieved from the Rose Law Firm file?

13 A No.

14 Q Do you recall a discussion of having to
15 retrieve this memo at the November 5 meeting?

16 A No.

17 Q Do you know who at the White House or
18 anywhere else might have taken steps to retrieve this
19 memo on October 8, 1993?

20 A No.

21 MR. ATKINS: Would you read that question
22 back, please.

1 (The reporter read the record as requested.)

2 MR. GIUFFRA: It should be November 8.

3 MR. ATKINS: I just object because you are
4 assuming facts not in evidence to the extent that you
5 are suggesting that someone from the White House had
6 something to do with printing that document out.

7 MR. KRAVITZ: Object to the entire
8 investigation on that basis.

9 BY MR. GIUFFRA:

10 Q Do you know whether anyone at the Rose Law
11 Firm took any steps on November 8, 1993 to print out
12 that memo?

13 A No.

14 Q Turn to page 12520 of the handwritten
15 notes.

16 MR. GIUFFRA: Could we just hold on for a
17 second. This will just take a second.

18 (Discussion off the record.)

19 BY MR. GIUFFRA:

20 Q On page 12520 it says, "nominal and
21 respectable plus out of" I think it looks like "thin
22 air"?

1 A It is actually "out of the air."

2 Q What does that refer to?

3 A It is a reference to the purchase price for
4 the stock when McDougal bought it from the Clintons.

5 Q Now below that reference there is a
6 reference to Jim Hamilton, Web Hubbell, Jim Blair,
7 Loretta Lynch, Susan Thomases, Charles James, I
8 believe J-a-m-e-s. Why are those names listed in
9 your notes?

10 A Just a recitation of people that, you know,
11 might have knowledge about Whitewater.

12 Q Then it says, a little further down "Betsey
13 Wright/Hubbell docs." Then it says "return docs to
14 Dave Kendall." What does that refer to?

15 A This refers to the Whitewater documents,
16 Whitewater records, that had gone from the campaign
17 to Betsey Wright and then to Hubbell.

18 Q Now, were these the Whitewater documents
19 that had been in your possession at one point?

20 A Yes.

21 Q Did this also include any Madison client
22 files of the Rose Law Firm?

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1 A No. What I thought we were talking about
2 there is the Whitewater documents themselves.

3 MR. GIUFFRA: One moment. Off the record.
4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q So Mr. Kennedy, it would be your testimony
7 that the documents that are being returned to David
8 Kendall are the Whitewater documents that you
9 gathered during 1991 or received during 1991?

10 A Yes, it is a better way of putting it, not
11 that I gathered them, but that they were given to me.

12 Q Those documents also would include any work
13 product that you would have prepared during 1991?

14 A Well, I can't -- I have no knowledge of my
15 own about what happened to those documents once they
16 were delivered to the campaign, but if one assumes
17 that they were all integrated whole, yes, that's it.

18 Q There is a reference below that to
19 "corporate records not to McDougal," and I really
20 can't read your handwriting, looks like "BEC" or
21 "BFC" and then it says "BW"?

22 A That's a similar reference to the

1 Whitewater records, the corporate records. They did
2 not go to McDougal because Betsey Wright got them.

3 Q That would be the same records you had in
4 your possession in 1991?

5 A Yes.

6 Q Below that there is a reference "HRC/RLF --
7 Loretta organized Charles James, accountant for
8 Whitewater." What does that refer to?

9 A I am talking about the same records,
10 Hillary delivers them to the Rose Law Firm, they go
11 to the campaign, presumably Loretta organizes them.
12 I don't know why the reference to Charles James is
13 right there, I simply don't recall as to why his name
14 appears there. Could have been that somebody said,
15 who is this guy, Charles James. I just don't know.
16 But that's what the reference is to.

17 Q Then it says "public documents:
18 Recorded." What does that refer to?

19 A Well, the -- the questions that you've
20 asked me, HRC/RLF public docs, loan docs, sort of
21 outlining sources of information for Kendall.

22 Q There is a reference midway down, on page

1 12521, quote -- in here.

2 A Okay, sorry.

3 Q I'm sorry, I apologize, too. It says "WW
4 because Sam Heuer-mistake"; what does that refer to?

5 A You have to look up above it. It refers to
6 the \$300,000 loan to Susan McDougal used to purchase
7 lands in Pulaski County from International Paper.
8 And it is purchased in the name of Whitewater in
9 October of 1986, two months later transferred out of
10 Whitewater Development Company to Great Southern Land
11 Development Company. Sam Heuer is evidently saying
12 it is in Whitewater because it was a mistake that it
13 was in there.

14 Q Did Mr. Lindsey indicate the basis for his
15 statement, what the meeting with regard to Mr. Heuer
16 was saying about the International Paper transaction?

17 A No, he did not.

18 Q If I could direct your attention to page
19 12522, and there appears to be a switch in the
20 discussion, immediately above, that you are
21 discussing the Lyons report or what appears to be the
22 Lyons report.

1 When you say Pat McCarthy & Associates,
2 Denver, Colorado.

3 A We are on 12522.

4 Q "Pat McCarthy & Associates, Denver,
5 Colorado," then it says "additional info, additional
6 schedule. Additional problems, long version." Do
7 you recall that?

8 A Yes.

9 Q Do you recall what those additional
10 problems were?

11 A No. I think it was simply that there were
12 two versions of the Lyons report, the long and a
13 short version. The long version had additional
14 information, had additional schedules, maybe outlined
15 additional problems.

16 Q Do you recall the discussion of what those
17 additional problems were?

18 A No.

19 Q Then it appears the discussion switches to
20 RLF/Madison Guaranty retainer at 2000 per month; is
21 that correct?

22 A Yes, that's what the notes indicate that we

1 start talking about, Madison.

2 Q And the Rose Firm representation of
3 Madison?

4 A Yes.

5 Q Okay, now, it appears you crossed something
6 out in your notes where it says "34,000-WWDC to
7 Hillary."

8 What do you recall about that discussion at
9 the meeting, if any?

10 A Well, as is so often the case when you ask
11 a question like that, you have to kind of take -- for
12 me to answer it, you have to take all of this as sort
13 of an integrated whole.

14 Q Okay.

15 A We talked about Madison Guaranty, there was
16 a retainer of \$2000 a month. There was evidently --
17 somebody said, wasn't there a \$34,000 check from
18 Whitewater to Hillary? And discussion basically
19 is -- no, that's not right. There is confusion about
20 that check, what everybody is talking about. They
21 must be addressing the Madison payments to the Rose
22 Law Firm on a retainer basis. And that's why I wrote

1 "\$34,000 WWDC to Hillary" and then struck it out,
2 because it was an erroneous reference.

3 Q What is the reference to "ann" to?

4 A Annual retainer. "Ann" means annual.

5 Q Then it says "plus check drawn"?

6 A Okay. Let me, if I may.

7 Q Just take us through it.

8 A No problem, but the plusses don't
9 necessarily mean plus. As you see, it is just me.

10 Q Just a way to denote something like a
11 bullet point or something?

12 A I am indicating -- I could use asterisks,
13 sometimes dashes, sometimes plusses.

14 Q "Check drawn on WWC payable to HRC," what
15 does that refer to?

16 A It refers to the discussion about this
17 check. It says "check drawn on WWDC payable to HRC"
18 and I believe that reference is -- ties back into
19 what is struck through above. Then you come down and
20 it says "believe that it probably represents payments
21 of \$2000, number of months for 17 months," and over
22 on the side "Bernie believes confirmed." In other

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1 words, somebody was saying wasn't there a check,
2 \$34,000 payable to Hillary, acknowledge somebody said
3 no, no, you must be talking about the retainer.

4 Q Was there any evidence as of November 5,
5 1993 that the retainer had been paid directly to
6 Hillary?

7 A No. No. Again, I just think that there's
8 confusion here, which is evidenced in the notes.

9 Q Now there is a discussion in your
10 typewritten notes. It says, "Bernie plus believes
11 that it probably represents payment of \$2000, number
12 of months for 17 months." That's at page 12533.

13 A Again this is me, not necessarily typing
14 this for public consumption, but to look at that, you
15 have to look at this better. Because here -- I am on
16 page 1522, Bob, you can see the treatment of it in
17 the handwritten notes, which I just did a poor job
18 typing but, for example, "Bernie believes confirmed"
19 is off to the side.

20 Q Correct.

21 A That sort of thing.

22 MR. KRAVITZ: The typewritten version of

1 that part on S 12533 is inaccurate in that sense?

2 THE WITNESS: Well, yes. I mean, it's -- I
3 believe that it probably incorporates all the words,
4 but it -- there was no way that I could do brackets
5 and stuff when I typed it up. So it is run together
6 improperly.

7 MR. KRAVITZ: It is two sentences mixed
8 together.

9 BY MR. GIUFFRA:

10 Q The reference to "prob.," you don't know
11 what that refers to?

12 A Well, if you look again at the handwritten
13 note, "believe that it probably represents payment of
14 \$2000, number of months," "prob." means probably.

15 Q Okay, understood. Further down, it says
16 "issue and campaign arrow 86/regard to HRC." What
17 does that refer to?

18 A Well, there was an issue in the campaign.
19 The McDougals had claimed that they had delivered all
20 of the records of every kind of character to the
21 Clintons.

22 Q These are the Whitewater records?

1 A Yes. And the Clintons have taken a
2 position that that was hogwash, that all the records
3 weren't delivered.

4 Q What is the basis for the Clintons' belief
5 that all the records had not been delivered?

6 MR. KRAVITZ: Are you talking about what
7 was discussed at the meeting as the basis?

8 BY MR. GIUFFRA:

9 Q We will ask both questions was there any
10 discussion at the meetings for the basis of the
11 Clintons' belief that they'd not received all the
12 Whitewater records from McDougal?

13 A I don't recall such a discussion. Again,
14 Bruce is reciting history here.

15 Q Do you recall any -- do you have any
16 understanding as to what the basis is of the
17 Clintons' belief that they hadn't received all the
18 Whitewater Development records from McDougal?

19 A Sure. It is the -- they delivered --
20 Hillary gave me all that she had, and it was a mess,
21 as I -- as I've testified.

22 Q So you believe she believed there were more

1 documents?

2 A She believed that there was a high
3 probability that there was more documents, yes.

4 Q You never contacted McDougal to try to
5 obtain more documents?

6 A I did not.

7 Q You have no understanding as to whether she
8 attempted to contact McDougal to obtain more
9 documents?

10 A Not that I know of. That is not to say she
11 did or she didn't. I don't know whether she did.

12 Q There is a discussion below that -- one
13 question where it says "'86, that the '86 campaign
14 issuing campaign arrow '86 records to MRC"?

15 A I don't recall specifically, Bob, but I
16 think it is a reference to the -- sort of the
17 conflicting allegations that in '86 the records were
18 delivered.

19 MR. KRAVITZ: I think what he is saying is
20 that it was an issue in the 1992 campaign.

21 THE WITNESS: Yes.

22 MR. KRAVITZ: Whether the records were

1 turned over in 1986.

2 THE WITNESS: That's right.

3 BY MR. GIUFFRA:

4 Q So the claim was that in the end of '86,
5 the Clintons had asked for these Whitewater records,
6 and McDougal claimed that, in '86, he gave them all
7 to Mrs. Clinton?

8 A I believe that's correct.

9 Q Then it says "RLF-campaign," then it says
10 "Jim Lyons and Loretta Lynch." What is that
11 discussion about?

12 A Again, we are talking about the records
13 again. And you know, during the campaign, the Rose
14 Law Firm had them for a while, and then they went to
15 the campaign. And Jim Lyons and Loretta Lynch, I
16 can't testify of independent knowledge exactly what
17 they did, but they were sort of point people on this
18 issue for the campaign.

19 Q This is the Whitewater files that were
20 maintained at the Rose Law Firm?

21 A Yes.

22 Q Not Rose Law Firm files relating to

1 Madison?

2 A No.

3 Q So this entire discussion is no
4 discussion -- strike that.

5 During this entire discussion up to this
6 point, there is no discussion of Rose Law Firm client
7 files relating to Madison?

8 A That's correct.

9 Q Then below that it says "Betsey Wright had
10 those records." Took them home?

11 A Took them home.

12 Q Below that it looks like it says "Betsey
13 Wright." Again, it says "WH retrieved-records from
14 BW."

15 A Yes.

16 Q Is that "Web Hubbell retrieved"?

17 A Yes, "Web Hubbell retrieved records from
18 Betsey Wright."

19 Q Then it says "been at WH arrow sent files
20 related to Whitewater"?

21 A Right. The records had been at Web
22 Hubbell's. He had been sent files related to

1 Whitewater.

2 Q Then it says "make a more complete
3 reconstruction." What does that mean?

4 A Well, it is a -- it is sort of a Kendall
5 task, that was sort of the consensus in the room that
6 they needed to make a more complete reconstruction to
7 the extent they were able.

8 Q Next page of the handwritten notes which is
9 12523. It says "Charles James-subpoenaed W/SBIC
10 matter." What do you recall about that discussion at
11 the meeting on November 5, 1993?

12 A Just what's here, that we were talking
13 about Hale again, and it is saying that Charles
14 James, at one time an accountant for Whitewater, was
15 subpoenaed with regard to the SBIC matter which is
16 Hale. And somehow that related dollars going into
17 Whitewater which, I guess, is the Hale allegations.

18 Q Do you recall who is doing the discussion
19 during this portion of the meeting?

20 A I think it is still primarily Bruce.

21 Q And did he indicate the basis for his
22 statement that Mr. James had been subpoenaed in

1 connection with an SBIC matter?

2 A I think he was referring, again, to the
3 press. But I don't recall specifically if he said
4 that outright or not. I believe he is talking about
5 the press. Because of the reference to the press
6 below.

7 Q I would like to show you the annotated copy
8 we obtained from the -- or the White House made
9 available to the press. There is an annotation on
10 the right-hand side indicating that this comes from a
11 news service or other document.

12 It is still your testimony that you think
13 this was based on some press account?

14 A I believe so, yes. I don't recall
15 necessarily whether he said that or not. But that's
16 what I believe.

17 Q Okay. Then it says "GJ indicted Hale --
18 press says that GJ continue investigation." Who is
19 GJ?

20 A Grand jury.

21 Q Okay. Here you have a reference to the
22 press where he is actually making reference to the

1 press, but whenever he mentioned press, you -- did
2 you to the best of your effort try to write down
3 "press"?

4 MR. KRAVITZ: He already answered that
5 question. Sometimes he did and sometimes he didn't.

6 THE WITNESS: I am sure I didn't get them
7 all. I am absolutely certain I didn't get them all,
8 but I wrote them down sometimes.

9 BY MR. GIUFFRA:

10 Q The next entry is "RTC people trying to get
11 BC and JGT." What does that refer to?

12 A That refers to people in the RTC trying to
13 get Bill Clinton and Jim Guy Tucker.

14 Q Did anyone indicate the basis for the
15 belief that people at the RTC were trying to get BC
16 and JGT?

17 A There was a reference immediately below
18 that to the story of a referral by RTC of JGT, Jim
19 Guy Tucker, Chuck Banks rejected.

20 Q Was there any other discussion of how RTC
21 people were trying to get BC and JGT that you can
22 recall at this meeting?

1 A No, not specifics other than the fact that
2 there were these -- there were press articles out
3 there indicating that there were people in the RTC
4 that were trying to get them.

5 Q Now the next entry, it says "vacuum Rose
6 Law files." What does that entry indicate to you?

7 MR. CASTELLITTO: I object to that as a
8 characterization of the entry. Go ahead.

9 MR. GIUFFRA: Before we go further, how am
10 I characterizing the entry?

11 MR. CASTELLITTO: You read it as if it were
12 a single phrase, "vacuum Rose Law files."

13 BY MR. GIUFFRA:

14 Q Okay, as you sit here today, do you recall
15 this portion of the meeting?

16 A Yes. Sure do.

17 Q And do you recall it, say, reasonably well,
18 quite well, vaguely?

19 A No, I recall it pretty well.

20 Q What do you recall this reference,
21 "vacuum," then it has "Rose Law files," means?

22 A It is not a complete sentence, although

1 everybody and their dog tries to make it one.

2 Okay, it is not a complete sentence.

3 "Vacuum" stands by itself. "Rose Law files" stands
4 by themselves. "Whitewater docs" stand by
5 themselves, et cetera.

6 Q Then it says "docs"?

7 A Right.

8 Q That's separate from WWDC; right?

9 A No, it probably refers to "WWDC docs."

10 Q Then it has "/subpoena"?

11 A Right.

12 Q What do you recall about this discussion at
13 the meeting?

14 A There was a general statement that we were
15 dealing with a vacuum, insofar as Whitewater was
16 relating -- insofar as Whitewater was concerned. And
17 of course I knew, that in my own personal knowledge,
18 that the records were horrendous. Okay.

19 Q Now this reference where it says "Rose Law
20 files," again, this is just to the Whitewater files
21 that were at Rose?

22 A That's correct.

1 Q There is no reference -- there was no
2 discussion, during this portion of the meeting, of
3 Rose client filings relating to Madison?

4 A That is correct.

5 Q Was interest an expectation that there
6 would be a subpoena for Whitewater Development
7 documents?

8 A No, there was no expectation that -- just a
9 sort of a general discussion that -- no expectation
10 that if one came that stuff that had been once at the
11 Rose Law Firm would no longer be there.

12 Q Okay, immediately below that it says
13 documents, quote documents arrow never -- why don't
14 you read that next.

15 A It says "asterisk documents," with an
16 arrow, says "never know go out" and the word below
17 that in typewritten version is "quietly?" It is
18 actually "quality."

19 Q And there is something crossed out to the
20 left. What was that?

21 A I can't tell you. I don't know.

22 Q Have you looked at the original of these

1 notes?

2 A You bet.

3 Q Can you tell from the original of these
4 notes what this is in the crossed-out version?

5 A No.

6 Q Why do you believe it is "quality," not
7 "quietly"?

8 A As the typed version indicates, when I
9 put -- when I did this originally, I never knew that
10 anybody other than my counsel would see it. And so I
11 produced it without an enormous amount of effort as
12 quickly as I could, but as accurately as I could at
13 the time. But I indicated on the typed version, I
14 wasn't sure if it was "quietly" or another word. My
15 good friends in the press always dropped my question
16 mark, but that's what they do.

17 When there became this focus of attention
18 on these notes, I picked up a magnifying glass and I
19 believe that word is actually "quality." Which
20 comports also with what we are talking about here,
21 which is the vacuum -- information vacuum that people
22 would be surrounded by, dealing with Whitewater.

1 Q Now, the reference immediately above
2 quality "documents-never know go out," what does that
3 mean?

4 A It is what I talked to you about earlier.
5 At this meeting, and still to this day, there is sort
6 of a mystery around how those documents got from the
7 Rose Firm to the campaign. I didn't take them, Sue
8 Kathy didn't take them, I can't tell you today who
9 physically picked up the records and delivered them
10 to the campaign. And that's what that reference is
11 to.

12 Q Why don't you, just in your own words now,
13 go through the best of your recollection what you
14 recall occurred at the meeting with regard to these
15 three lines?

16 A Didn't I just do that?

17 Q Just one more time. I apologize.

18 MR. ATKINS: The three lines we are
19 referring to are "vacuum", to the word "quality."

20 BY MR. GIUFFRA:

21 Q The reason I want you to do that is,
22 actually, I interrupted you. I wanted to have on the

1 record what your best recollection is.

2 A Okay. I am -- what I am going to do is I
3 am going to state for the record that my best
4 recollection is what I had said previously. But I
5 will try to do it all as an integrated whole, but my
6 best recollection is how I responded earlier.
7 "Vacuum" stands by itself. It is not, I repeat not,
8 with a capital N, a complete sentence. It talks
9 about an information vacuum that, if you tried to
10 speak knowledgeably about Whitewater, that's what you
11 were going to deal with.

12 That the Rose Law Firm files, Whitewater
13 documents are gone. If the subpoena came in, they
14 were once there, they are gone now.

15 That no one in the room, including myself,
16 can say how they had been delivered to the campaign.
17 And, as I say, I had -- when I had typed it up, I
18 thought the word might have been "quietly," but I put
19 a question mark there. I have gone back and looked
20 at it with a magnifying glass. I believe it is
21 actually "quality," which refers to the fact that the
22 records were in a shambles. They were incomplete,

1 almost worthless.

2 Q The use of the word "vacuum," was that
3 Mr. Lindsey?

4 A Probably so. But I can't tell you for
5 sure.

6 Q Is this entire discussion still
7 Mr. Lindsey?

8 A Most of it is. I mean, as the notes
9 indicate, there is a lot of questions being asked,
10 and there's some discussion.

11 Q With regard to the subpoena, what was the
12 basis for a belief that there might be a subpoena for
13 Whitewater Development Corporation documents?

14 A I don't think that there was any,
15 necessarily any expectation of a subpoena, although
16 reasonable people could assume, if the investigations
17 continued, they would be coming. And there was a
18 crescendo as I previously said.

19 But, again, it ties back into the fact that
20 I said there was an information vacuum.

21 Q And the reference to quality, to the best
22 of your recollection was just the quality of the

1 files maintained at Rose with regard to Whitewater?

2 A Whitewater.

3 MR. KRAVITZ: May I ask one question?

4 MR. GIUFFRA: Sure.

5 MR. KRAVITZ: Mr. Kennedy, was there any
6 discussion at the November 5, 1993 meeting of any
7 efforts that either had already been made or that
8 would be made in the future to make Rose Law Firm
9 files or Whitewater documents unavailable to
10 investigators?

11 THE WITNESS: Absolutely not.

12 BY MR. GIUFFRA:

13 Q Below this discussion of "vacuum" it says
14 "Susan McDougal called McDougal account at
15 Madison-two different checks, IP filed partial
16 releases of the mortgage." What does that refer to?

17 A Well, what it -- what it refers to, I
18 think, is we were bouncing a little bit -- the
19 meeting is bouncing around. But somehow it ties back
20 into the International Paper transaction. The
21 McDougals had made payments, partial payments on the
22 International Paper mortgage which had resulted in

1 partial releases. That's basically it.

2 Q What is the reference to two different
3 checks?

4 A I can only -- I can't shed much light on it
5 other than I just did. I think they are talking
6 about two different checks which come up with partial
7 payment on the International Paper Company mortgage,
8 which I think was owed by Whitewater, although don't
9 hold me to that.

10 Q Now the reference below that, to
11 "examiners-McDougal," what does that refer to?

12 A I think it refers again to -- the examiners
13 raising questions about the International Paper
14 Company transaction. But I can't be certain about
15 that. It might refer to the discussion below about
16 the campaign checks. I just don't know.

17 Q Now immediately below -- strike that.

18 Was there any discussion at the meeting of
19 the removal of Jim McDougal from Madison?

20 A No, I don't think so. I don't recall any
21 discussion about the removal of Jim McDougal from
22 Madison.

1 Q Then we have a discussion that starts
2 "Charles Peacock-proceeds went from Charles for
3 Clinton campaign-'85 made a donation? 3000- \$12,000
4 asterisk, could all come from Charles Peacock loan --
5 dollar sign, siphoned off from the loan. After that
6 Charles Peacock (C. Peacock) 1500 per election-\$3000
7 primary and in general." What is this discussion?

8 A It refers to the previous portion of the
9 notes that refers to the campaign checks written in
10 '85, which talked about earlier in the notes -- I am
11 thumbing back through here trying to find -- it would
12 be in the handwritten version. It would be 12518, on
13 that page. And just one second.

14 If you -- I am bouncing around on you. If
15 you look at 12532 there is no reference to -- again,
16 I am on the typed version about the middle of the
17 page, there is an asterisk. It says "knowledge of
18 referral Gerth and Isikoff. Referrals include
19 campaign checks" and that's what we have now gone
20 back to, that.

21 Q Now what do you recall about this
22 discussion of these campaign checks on page 12534?

1 A Basically, that Bruce is outlining, sort
2 of, the allegations, that the press was reporting
3 wherein the referrals -- that there was a loan made
4 to a guy named Charles Peacock, that loan may have
5 been a way of funneling funds to the campaign. And I
6 think Ken peacock might be Charles Peacock's son. It
7 is \$1500 per election, 3000 total. There were four
8 checks. He's just sort of outlining allegations.

9 Q Okay. Now, the top of page 12524, the
10 discussion that looks like you are changing subjects
11 now. I think it says "Betsey Wright-Clinton took out
12 a loan, not disclosed today-the last report never had
13 a match with BET. Receipts and expenditures." Do
14 you recall what this discussion is about?

15 A Bob -- I hate to say this, but this is the
16 only section of the notes where I can't help very
17 much. I can tell you what the words say, and I
18 evidently did not follow what the hell -- what this
19 was about, because my memory is not refreshed by the
20 notes. I cannot shed much light on what this means.
21 I can tell you what the word says. It is something
22 about something on the financial disclosure forms.

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1 With an end result that the -- that the forms were
2 okay, Betsey says "didn't have to disclose the
3 loans." But I am going tell you right now, I cannot
4 shed much light on what this means because I must not
5 have understood it when I wrote it down. And I am
6 very sorry about that.

7 Q Immediately above the line it says
8 "\$300,000, what application from?"

9 A Yes the word is either "from" or "form."
10 Again, looking at it with a magnifying glass, I think
11 the word is probably "form," but as I -- I'll be the
12 first to admit, when I wrote it with my typed version
13 I put "from" with a question mark because I wasn't
14 sure what the word was.

15 Q You don't know what this refers to?

16 A No, I don't. The only way \$300,000 appears
17 is supposedly that's one of the loans. I mean,
18 supposedly that amount was used to purchase the
19 International Paper Company. And I don't know what
20 this means, this, sort of, this whole section here is
21 beyond me.

22 MR. KRAVITZ: Can we take five.

1 MR. GIUFFRA: Sure.

2 (Recess.)

3 BY MR. GIUFFRA:

4 Q Let's go to the bottom of page 12524.

5 "Could be that JGT is target of RTC referral"; do
6 you know what that refers to?

7 A I think it's -- as we talked about, that
8 there is an earlier statement in here, the people in
9 the RTC were out to get JGT, and that this is just a
10 follow-up to that discussion. And, again, we are
11 bouncing around a little bit in terms of subject.
12 But that's -- I mean, I can't tell you more specific
13 than that.

14 Q Can you tell me about the entry immediately
15 above that where it says "Hale had property"?

16 A Well, this is -- this is a discussion of
17 the shenanigans that Hale had pulled with regard to
18 property, and putting dollars in his SBIC. And then
19 some of the money went to Susan McDougal, and I mean
20 this as background with regard to, sort of, the Hale
21 stuff.

22 Q Now it says, below that JGT it says

1 "1986-new statement of purpose Flowerwood collateral
2 as a make." Do you know what that refers to?

3 A No, I'm sorry. I don't. I couldn't
4 remember what Flowerwood was until I got the document
5 package. And Flowerwood is a McDougal entity
6 referred to in the Lyons report. The Flowerwood
7 Farms, Inc., but I can't tell -- help you here very
8 much. We were -- these notes were bouncing around a
9 lot. I cannot shed -- although I would deeply like
10 to, what the statement of purpose refers to or the
11 Flowerwood. I mean, I just don't know.

12 Q And then it says "repay it arrow promise to
13 repay it HRC wait to after the election \$47,061"?

14 A No, 4000.

15 Q 4761.33?

16 A Okay. This is a reference again to a
17 repayment of the -- sort of whatever the tax
18 advantages were arising from their ownership, and all
19 the mistakes that were made because the records were
20 incomplete. And things were misfiled and
21 misapplied.

22 Q Was there any discussion of a missing Hale

1 document that might implicate Governor Clinton in any
2 wrongdoing at the meeting?

3 A No. I don't recall such. I mean, the only
4 stuff I recall, which is set forth in the other page,
5 which is all these allegations he made about
6 conversations.

7 Q Then it says -- again, this part of the
8 discussion, do you recall whether that is Mr. Lindsey
9 reading the discussion, 12525 immediately below
10 4761.33?

11 A No, I think -- as I said, immediately above
12 that we were bouncing around a little bit within the
13 discussion. But I think at this point Jim Lyons has
14 sort of taken over the labor organizer.

15 Q Do you recall approximately when he might
16 have taken over the labor?

17 A Right about here.

18 Q Right about here?

19 A Yes.

20 Q Starting to say 1978?

21 A Yes. I mean, I can't tell you that with
22 specificity, but there is a little bit of -- sort of,

1 we have gone back to backgrounds here with this 1978
2 reference. And this is when I think Jim sort of
3 pitched in and had given a very nuts and bolts
4 presentation about Whitewater.

5 Q Now, then it says "1978 AG plus HRC new
6 lawyer at RLF." What does that refer to?

7 A In 1978, Clinton was Attorney General when
8 Hillary had just come to the firm.

9 Q "McD had just approached Clinton few things
10 could be buy/subdivide/sell lots and get rich. No
11 cash-deal, 100 percent leverage." What do you recall
12 about this part of the discussion?

13 A Again, it is background. I think it is
14 Lyons talking, and he is just basically saying that
15 McDougal may have approached Clinton and made a pitch
16 to him.

17 Q And this discussion of "few things," what
18 does that refer to?

19 A I can't -- I can't give you more content
20 other than sort of what the notes say. Speculate
21 that McDougal may have approached Clinton and said
22 that as governor there are a few things that you can

1 do, a few investments you can make, something like
2 that. You know, let me pitch something to you.

3 Q Was there any discussion about why
4 Mr. McDougal might have approached then Attorney
5 General Clinton?

6 A No. I don't recall any. Other than they
7 knew each other, were friends. I don't recall any
8 such discussion.

9 Q Now where it says "buy/subdivide/sell lots
10 and get rich," that's sort of self-explanatory. Then
11 it says "no cash-deal 100 percent leverage"; what
12 does that refer to?

13 A Again, just what the words say. That again
14 we are -- he is speculating here, Clinton may have
15 approached -- McDougal may have approached Clinton,
16 pitched him, offered him a pie-in-the-sky deal.

17 Q And this reference to "no cash-deal, 100
18 percent leverage," what does that refer to?

19 A My recollection is that it talks about,
20 again, the pitch that McDougal could have made, that
21 you know, I can put you in something and we can use
22 100 percent leverage.

1 Q Now, when Mr. Lyons is recounting the pitch
2 that Mr. McDougal may have made to Governor Clinton
3 or Attorney General -- excuse me, was he basing his
4 presentation on conversations he had had with either
5 of the Clintons?

6 A I can't answer that. I don't know.

7 Q You don't know what the basis was for
8 Mr. Lyons's statement "no cash-deal, 100 percent
9 leverage"?

10 A No.

11 Q You don't know what the basis was for that
12 statement?

13 A The answer is no, I don't know for sure.

14 MR. KRAVITZ: I am not sure that
15 Mr. Kennedy has testified that Mr. Lyons made the
16 statement that is indicated in the quotes.

17 BY MR. GIUFFRA:

18 Q Is that your belief, that he made the
19 statement, or you don't know?

20 A It is around in here somewhere that I
21 believe that Mr. Lyons is sort of going to take over
22 the discussion because we are getting into a sort of

1 more technical or background driven, you know, but
2 I -- I can tell you that, this is sort of speculation
3 here.

4 Q How can you -- what's the basis for your
5 statement that you can tell me it is speculation?

6 A The use of the word "may." Clinton --
7 "McDougal may have approached Clinton."

8 Q The "may" then refers to everything that
9 comes after that?

10 A That's what I believe happened, yes. That
11 he -- sort of speculating about how Clinton could
12 have gotten into this thing.

13 Q Then at the top -- remainder of the page is
14 the history of the Whitewater transaction, what
15 happened. And I apologize for not asking you
16 questions on that, I am trying to speed this up.

17 A Here here.

18 Q Now was the plan -- it says "subdivided
19 lots sold purchase or contract"?

20 A "Purchase on contract."

21 Q "Purchase on contract, paid out over
22 time -- revenue stream would service lots and pay

1 debt"; is that right?

2 A Yes.

3 Q Then it says, "1979 WWDC," is that "formed"
4 then "assets" and I can't read the next word?

5 A Well, it is "XFD," which is my shorthand
6 for transferred.

7 Q "Assets transferred-mortgage and debt kept
8 personally"?

9 A Right.

10 Q Meaning that the debt, the original debt
11 that was used to buy the land was kept personally by
12 the McDougals and the Clintons?

13 A Yes, it was incurred personally and
14 retained.

15 Q That's the \$182,000 loan through the
16 Citizens Bank of Flippin that's referred to above
17 that?

18 A I believe so and the \$20,000 Union National
19 Bank loan.

20 Q There is a reference further down to "HUD
21 interstate land sale prospectus"?

22 A I think the word is "properties."

1 Q "Properties."

2 A Again, it could be "prospectus." And when
3 I typed it up, I wrote "prospectus," you are
4 correct. Its could be "properties," but anyway, it
5 is either prospectus or properties.

6 Q Is that "HUD" Housing and Urban
7 Development?

8 A Yes.

9 Q Do you recall this discussion during the
10 meeting?

11 A No. Other than Lyons may have said that --
12 that these lots were subject to Interstate Land Act,
13 I don't remember specifics about this other than
14 what's here.

15 Q Why do you believe Lyons may have said
16 something about how these sales were subject to the
17 HUD Interstate Land Act?

18 A Because I wrote it. Counsel, I hate to be
19 pedantic. I think that's what he said they may have
20 been or they were or something.

21 Q Do you recall what the significance would
22 be if those sales were subject to the HUD Interstate

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1 Land Sales Act?

2 A No, I am not familiar with that area of the
3 law, Bob. I have not practiced fooling with that
4 stuff. I just don't know.

5 Q I would like some help trying to read some
6 of this.

7 A I can understand.

8 MR. KRAVITZ: You mean more even than
9 what's in the typewritten version?

10 THE WITNESS: To the extent I can help you,
11 turn me loose.

12 BY MR. GIUFFRA:

13 Q If you could start at the top of 12526.

14 A Okay.

15 MR. KRAVITZ: Bob, is there any part of
16 this where you think the typewritten version is
17 inaccurate? The witness has already done a
18 typewritten version.

19 BY MR. GIUFFRA:

20 Q That's what I am about to do. It says "HRC
21 McD loan from MBT." Do you know what MBT is?

22 A Probably Madison Bank and Trust.

1 Q And this is a discussion of the lot 13
2 transaction?

3 A Yes.

4 Q This reference to Helman Logan, do you know
5 what that refers to?

6 A Sure. This lot 13, was acquired by
7 Hillary, they put a demonstration house on it and it
8 was sold to a guy named Helman Logan who owned it for
9 a while and then quit paying, foreclosed on, took
10 bankruptcy, and got back -- Hillary got it back out
11 of the bankruptcy.

12 Q There is a discussion later on, too,
13 Pesbrook. Who is Pesbrook?

14 A Good question.

15 It is actually -- and I didn't know this
16 until I got the document -- it is actually Pembroke,
17 P-e-m-b-r-o-o-k-e. It is one of the McDougal
18 entities referred to in the Lyons report. Pembroke
19 Manor, I think, is the full name of it.

20 Q Let's go to the bottom where there is an
21 asterisk. It goes "9000 McDougal," bottom of 12526,
22 "asterisk 9000 McDougal arrow interest payment

1 question mark checking," is it "bank" or "blank"?

2 A Blank.

3 Q What does that refer to?

4 A There was -- and I believe there was
5 referred to in the line report -- there was a check
6 with the payee not filled in, written by Hillary, and
7 delivered to McDougal, and you have to refer to the
8 Lyons report to all the intricacies of it. But it
9 was, again -- I cannot, without referring to that
10 document -- it was applied, but the Clintons thought
11 it applied one way and it was treated another way and
12 it was a big mess. And so, this is a discussion
13 about that.

14 Q In the version of this that's annotated by
15 the White House, there is no indication that this
16 discussion, beginning "9000 McDougal" and ending 1985
17 on the next page, "1985 McDougal decides to get
18 out -- deal with Wade," is based on the Lyons report.

19 A Where you are seeing "McDougal decides to
20 get out"?

21 Q 12527.

22 A I'm sorry. You have confused me. We are

1 talking about the \$9000?

2 Q Yes, from that entry to the next page,
3 leading to "1985 McDougal decides to get out deal
4 with Wade."

5 A Well --

6 MR. ATKINS: The question is --

7 BY MR. GIUFFRA:

8 Q No I just --

9 A I am trying to find where it is. "McDougal
10 decides to get out. Deal with Wade, 1985." I
11 thought you were talking about the \$9000. I'm not
12 sure what you are talking about now.

13 Q You indicated in your testimony that this
14 comes from the Lyons report, in the version of this
15 that the White House released to the press, in which
16 they attempted to, and I take it your notes they
17 don't make a reference to the Lyons report.

18 A Would you like for me to show you in the
19 Lyons report where this \$9000 check is addressed.

20 Q You believe this is in the Lyons report,
21 this discussion of the \$9000 checks?

22 A Not this discussion but a discussion of a

1 \$9000 check. I believe so.

2 Q I think it may be the long report.

3 Off the record.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q This would be at the top of page DEK
7 004336, paragraph 4.

8 MR. KRAVITZ: Which is page 5 of the March
9 23rd, 1992 Lyons report. Just so the record is
10 clear, that's the discussion of this \$9000 check that
11 Mr. Kennedy has in his notes on page S 12526.

12 BY MR. GIUFFRA:

13 Q There is a discussion, a reference on the
14 next page, 123527, getting to the end, "lot subpoena
15 interest problem." Do you know what that refers to?

16 A No. I mean, I am pretty sure it refers to
17 something in the Lyons report, something about the
18 treatment or the misapplication of the payment that
19 the Clintons had tried to make. And the discussion,
20 as you can see in the notes about this lot 13
21 situation and this interest problem, I think relates
22 to that.

1 Q And then there is a reference below that to
2 "Chris Wade runs real estate office, Ozark Lands.
3 He believes that a part other than no paper/no
4 evidence-any ownership interest earning of some
5 kind," do you recall that at all?

6 A Yes, this sort of is reference -- or sort
7 of starts to set the stage for the airplane
8 transaction, the Ozark Air transaction, where lots
9 were sold in Whitewater for a purported assumption of
10 mortgage and the -- and an airplane.

11 Q I apologize for this. Immediately above
12 the Chris Wade reference there is a reference to a
13 check for \$2744.65, president to Madison Bank. Is
14 this the check that the President wrote for his
15 mother's -- the mortgage on his mother's lakeside
16 home that was misapplied to Whitewater?

17 A I can't answer that with specificity, but I
18 think that's a different deal. But you may be right.

19 Q You don't know what this reference to
20 20,000 --

21 A No. There is an earlier reference on page
22 12526, and it talks about a second note at Madison

1 Bank, 2744.65, president to Madison Bank, expecting
2 applied to HRC loan, applied instead McDougal loan.
3 And you have better knowledge of this than I do, but
4 that may be the mortgage thing. But I -- I just
5 can't tell you that. All I can tell you is what
6 these notes say.

7 Q You don't recall anything more about the
8 discussion?

9 A No.

10 Q On the next page, 12527 through to 28, it
11 says, looks like on 23527 it says "reconstruction" --
12 "arrow reconstruction arrow Clinton not released
13 until fall of 1992." And then it says -- looks like
14 it says "Blair up-Chris Wade." What does that
15 indicate to you.

16 A Just one second. I am trying to catch up
17 on the typed version. Can you be a little more
18 specific? I mean, you read some of these -- what
19 specifically are you asking?

20 Q The discussion where it says
21 "reconstruction arrow \$11,000 arrow" and then it
22 says "Clinton not released until fall of 1992, Blair

1 up-Chris Wade"; I think that's one entry. I could be
2 wrong.

3 A No. Again, the typed version is not
4 elegant insofar as it relates to the handwritten
5 notes.

6 Okay, the -- it says, you have to go up a
7 line, "airplane transferred in blank, sold for
8 \$25,000, taken by McDougal as a commission," and then
9 there is just a word "not." Then it says
10 reconstruction and then it says \$11,000. Now, what I
11 think that means is, is that -- and this is one of
12 the crazy things about Whitewater, these lots are
13 sold for \$25,000, sales proceeds don't go to
14 Whitewater, McDougal grabs them, takes them as a
15 condition -- it is not treated as sales proceeds.

16 MR. KRAVITZ: Commission.

17 THE WITNESS: McDougal takes it as a
18 commission. When the reconstruction was done, I
19 think the \$11,000 refers to the remaining balancing
20 on the Citizens Bank of Flippin loan, I believe.

21 BY MR. GIUFFRA:

22 Q And the reference to Clinton not released

1 means that he had not been released because McDougal
2 had taken the \$11,000 and not applied it to paying
3 off a lien?

4 A Well, that the -- that McDougal had taken
5 the \$25,000 and not delivered it to Whitewater, the
6 corporation, but instead had kept it. And that when
7 the -- the Lyons reconstruction -- the Lyons report
8 was done, there was \$11,000 remaining balance on the
9 mortgage. And then "Clinton not released until fall
10 of 1992" means to me that he was not released from
11 the sort of seminal mortgage, what he was personally
12 liable on.

13 Q Okay. What do you know about the release
14 of Clinton from the Bank of Flippin mortgage in the
15 fall of 1992?

16 A Nothing other than this notation here.

17 Q Now, do you know whether Mr. Blair provided
18 any funds to Mr. Wade to take over that mortgage?

19 A I do not.

20 Q The reference to "Blair up-Chris Wade,"
21 what does that mean?

22 A I am not sure. I think it means that Blair

1 may have talked to Chris Wade about this.

2 Q Why do you believe that?

3 A "Blair up-Chris Wade," I mean, that's the
4 notation in the notes.

5 Q Does that indicate to you Mr. Blair may
6 have provided some assistance to Mr. Wade?

7 A No, it doesn't indicate that to me.

8 Q But you would agree that the reference is
9 definitely to Mr. Blair in some way?

10 A Yes.

11 Q You don't recall anything more about the
12 discussion of Mr. Blair and Chris Wade at the
13 meeting?

14 A No, other than that I can't recall the
15 specifics of it, but I believe that Lyons had said
16 that Blair had gone up and talked to Wade.

17 Q Then there is a reference to "owe IRS," do
18 you know what that means, "owe IRS"?

19 A I think it refers somehow to the notation
20 below, but I can't tell that you for sure. I am not
21 exactly sure what the "owe IRS," who owes it, exactly
22 what that means.

1 Q Now it is your testimony, you don't know
2 how the balance of Whitewater's allegation to the
3 Bank of Flipin was paid off in late 1992?

4 A Do not know.

5 Q Below that it says, arrow -- excuse me,
6 "goes to GSLC." You don't know what that refers
7 to -- do you know what that refers to?

8 A Well, I think GSLC is Great Southern Land
9 Company. And I don't know what the reference means.
10 I wish I could help you, Bob, but I am not sure.
11 These -- "owe IRS" "WWDC 32,000" and "goes to GSLC,"
12 I am not sure what the references are to.

13 Q A little further down it says "First
14 Federal candidate disc form did not disclose BEC
15 because did not know existed."

16 A Right.

17 Q What do you recall about that discussion?

18 A Well, it refers again to the sentence above
19 it, the reference in the notes above it is "term as
20 governor, report as asset/liability." And it says
21 "neither." "First Federal candidate disclosure
22 form, did not disclose because did not know

1 existed."

2 What I remember generally is that during
3 the term of governor on the financial -- term of
4 governor on the financial reports that Whitewater was
5 not listed either as an asset or a liability. And
6 then someone did the First Federal candidate
7 disclosure form based on the gubernatorial ones and
8 it flowed through improperly, because it was not
9 listed on the gubernatorial forms.

10 Q Were you aware of the creation of a
11 Whitewater response team in late 1993 at the White
12 House?

13 A The creation of it?

14 Q Yes.

15 A I mean, I knew that such an animal
16 existed. I don't think I knew precisely when it was
17 formed.

18 Q Were you a member of that team?

19 A No.

20 Q At the conclusion of your notes 12528, does
21 that reflect the end of the meeting or was there any
22 further discussion you can recall at the meeting?

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1 A No, I think that pretty much reflects the
2 end of the meeting.

3 Q The notes would encompass everything
4 discussed. Do you recollect the meeting roughly?

5 A Pretty much, to my limited abilities.

6 Q Do you recall any -- do you recall any
7 discussion at the end of the meeting or at the
8 meeting of any follow up that need to be taken?

9 A No, as I previously testify, I don't recall
10 anybody being specifically tasked to do anything
11 other than Kendall was going to crank up and do his
12 job.

13 Q Was there any discussion of any need to
14 have subsequent meetings?

15 A No, I don't recall any specific discussion
16 about that.

17 Q Do you recall any general discussion?

18 A No. But, you know -- other than we will
19 talk later type thing, most general type stuff. I
20 mean, clearly we were going to cooperate amongst
21 ourselves.

22 Q Do you have any understanding as to whether

1 Mr. Kendall spoke on later occasions with any of the
2 other participants in the November 5 meeting?

3 A I have no knowledge of that. I mean, I
4 don't know whether he did or he didn't.

5 Q You never discussed with Mr. Lindsey any
6 subsequent conversations Mr. Lindsey had with
7 Mr. Kendall?

8 A Did I?

9 Q Yes.

10 A I don't recall doing so. You know, I do --
11 it is entirely likely that, you know, he may have
12 told me at some point that he had talked with
13 Kendall. Wouldn't have surprised me in the least nor
14 would I have thought anything about it, but I don't
15 recall any specifics of that.

16 MR. KRAVITZ: Bob, you may not remember, it
17 was so long ago, but I think that question has
18 already been asked, probably about seven hours ago.

19 MR. GIUFFRA: I have no further questions.

20 MR. KRAVITZ: I have a few questions, sir.
21 Do you want to take a two-minute break first or do
22 you want to go ahead?

1 THE WITNESS: Let's go forward.

2 EXAMINATION

3 BY MR. KRAVITZ:

4 Q Mr. Kennedy, I just want to ask some
5 general questions that I think will get at some of
6 the allegations that have been made before your
7 testimony here today as the basis for why the
8 committee felt it was so important to have access to
9 your notes of the November 5, 1993 meeting.

10 To your knowledge, did any of the White
11 House officials present at the meeting on November 5,
12 1993 transmit to Mr. Kendall any confidential
13 government information --

14 A No.

15 Q -- relating to investigations of the
16 Madison or Whitewater matters?

17 A No, not to my knowledge, no.

18 Q To your knowledge, was all of the
19 information that was transmitted by Mr. Lindsey and
20 other White House officials at that meeting
21 information that came either from press reports or
22 inquiries, or from nongovernmental sources such as

1 the Lyons report?

2 A I had no reason -- when somebody sat across
3 the table from me, Neal, I had no reason to say, how
4 the hell do you know that, and so there was no kind
5 of questions about that from anybody that I can
6 recall.

7 And as far as I know, everything that came
8 up at that meeting was from either press reports or
9 from sources such as the Lyons reports. I don't
10 recall anything that came from gubernatorial --
11 excuse me, governmental sources.

12 Q Just so the record is clear, you don't
13 recall any information being transmitted, the source
14 of which was federal government investigative
15 sources?

16 A That's correct.

17 Q As you've reviewed your notes of the
18 November 5, 1993 meeting, have you noticed any
19 references in those notes to Jean Hanson or any of
20 the other Treasury Department officials who may have
21 transmitted information about an RTC investigation to
22 any White House officials prior to November 5, 1993?

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1 A No.

2 Q Do your notes have -- make any reference to
3 any meetings between Treasury and White House
4 officials that occurred on September 29 or October
5 14, 1993?

6 A No.

7 Q To your knowledge, was any information
8 transmitted at either the September 29 or the October
9 14 White House-Treasury meeting transmitted by any of
10 the White House officials to Mr. Kendall at the
11 November 5, 1993 meeting?

12 A With the caveat, Neal, that I wasn't at
13 either of the two previous meetings, and therefore
14 don't know what went on there. As far as I know,
15 there was none transmitted.

16 Q You certainly recall no reference at the
17 November 5, 1993 meeting to any information that
18 White House officials had received from Ms. Hanson or
19 other Treasury officials relating to an RTC
20 investigation of Madison; is that correct?

21 A That's correct.

22 Q At any time during the November 5, 1993

1 meeting, did Mr. Kendall or any of the other private
2 attorneys present ask any of the White House
3 officials present at the meeting to use their
4 government positions to obtain confidential
5 government information relating to Whitewater,
6 Madison, David Hale or Capital Management Services?

7 A No.

8 Q Specifically, did Mr. Kendall or any of the
9 other private attorneys present ask Mr. Eggleston or
10 any of the other White House attorneys present to
11 seek to obtain confidential information relating to
12 the SBA's investigation of Mr. Hale and Capital
13 Management Services?

14 A I recall no such conversation.

15 Q At any time, including the November 5
16 meeting, but extending beyond that meeting, did
17 Mr. Kendall or any of the other private lawyers who
18 attended the November 5th meeting -- strike that.
19 Let me start over.

20 You said that on November 5, Mr. Kendall
21 did not ask you or any of the other White House
22 lawyers present to seek to obtain confidential

1 government information?

2 A That's correct.

3 Q Did Mr. Kendall make a request to you, or
4 to your knowledge, to any other White House
5 officials, to seek to obtain confidential information
6 at any other time to your knowledge?

7 A No.

8 MR. KRAVITZ: That's all I have, thanks.

9 EXAMINATION

10 BY MR. GIUFFRA:

11 Q Mr. Kennedy, you can't be certain there was
12 no transmission of confidential governmental
13 information at the November 5 meeting, can you?

14 A No, that's a fair comment. I cannot be
15 certain of that.

16 Q Because you don't know the source of all
17 the information that was communicated at the November
18 5 meeting to the participants the meeting?

19 A I can't say that I know the source of all
20 of it. I think I know the source -- as the notes
21 indicate and my testimony has indicated, I think I
22 know the source of most of it. But I can't say for

1 sure I know the source of every single scrap of
2 information at that meeting.

3 Q Plus you don't also know whether
4 information that was contained in press accounts --
5 strike that. You don't know whether -- strike that.

6 You've testified that some of the
7 information at this meeting came from reporters and
8 press accounts; correct?

9 A Yes.

10 Q You don't know whether some of that
11 information also was obtained from governmental
12 sources, right; the same information?

13 A The answer to your question is that, as I
14 say, and as I had previously testified, I believe
15 that most of this information, if not the vast
16 majority of it came from either the Lyons report or
17 press inquiries or published press articles or the
18 newspaper -- or television, that sort of thing.

19 Q You don't know whether governmental
20 officials confirmed information that was contained in
21 press reports, and that that information was then
22 subsequently communicated at the November 5 meeting?

1 MR. KRAVITZ: What information? The fact
2 that government officials had confirmed information
3 or the underlying information?

4 MR. GIUFFRA: I will rephrase the question.

5 BY MR. GIUFFRA:

6 Q You don't know whether governmental
7 officials had confirmed to persons at the meeting who
8 were communicating information -- strike that.

9 All right, it is your testimony that some
10 of the information at this meeting contained press
11 accounts from reporters; right?

12 A Yes.

13 Q And you don't know whether all of the
14 information was from press accounts, reporters or the
15 Lyons report; right?

16 A I would rather say it this way: I cannot
17 say I know the source of every scrap of information
18 that was discussed at this meeting, because I don't.

19 Q Now, if information that was discussed at
20 this meeting was given to the participants at the
21 meeting, from both press accounts and from
22 governmental sources, you don't know that fact;

1 right?

2 A Well, I think I just stand on what I said.
3 I cannot say I know the source of everything. As I
4 previously testified, the vast majority, the majority
5 of the information that was talked about came from
6 press sources as identified in the discussions and
7 from the Lyons report which we had the author of
8 sitting at the table.

9 Q You would agree that if information comes
10 from both press accounts and from governmental
11 sources, that the information that comes from
12 governmental sources, if it is the same information
13 that get confirmation from governmental sources,
14 that's valuable information for somebody to know?

15 A Bob, I have to say it depends on the facts
16 and circumstances.

17 Q And you don't know whether that occurred
18 here?

19 A What occurred? I really am not trying to
20 split hairs with you, but I don't follow you.

21 Q You don't know whether some of the
22 information that was contained in press accounts,

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1 okay, and that was reported at in meeting, was prior
2 to the meeting, confirmed to the person who was
3 communicating the information at the meeting, by
4 governmental officials?

5 A No, I can't say whether I know that to be
6 true one way or the other, no.

7 Q And you would agree that often press
8 accounts are inaccurate?

9 A Lots of times.

10 Q Whereas information you get from
11 governmental sources tends to be more accurate?

12 A Not necessarily. Not necessarily. And I
13 think the key focus is on confidentiality.

14 MR. GIUFFRA: No further questions.

15 MR. KRAVITZ: Let me ask two follow-up
16 questions.

17 EXAMINATION

18 BY MR. KRAVITZ:

19 Q Mr. Kennedy, is it correct that at several
20 points during this meeting on November 5, 1993,
21 Mr. Lindsey identified the source of his information,
22 as being press reports, press inquiries or other

1 nongovernmental sources, such as the Lyons report; is
2 that correct?

3 A Yes.

4 Q And is it correct that you have no
5 recollection of Mr. Lindsey at any time citing a
6 Treasury Department official, or an RTC official, as
7 the source of information he was transmitting to
8 Mr. Kendall at the November 5 meeting?

9 A No one at that meeting identified such a
10 source.

11 MR. KRAVITZ: Thank you.

12 MR. GIUFFRA: I have no further questions.

13 Thank you very much for coming, Mr. Kennedy.

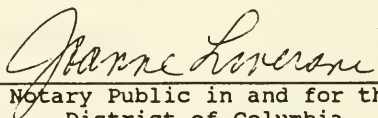
14 (Whereupon, at 6:00 p.m., the deposition
15 was concluded.)

16 -----
17
18 WILLIAM H. KENNEDY, III
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**KENNEDY EXHIBIT 1 WAS NOT PROVIDED
IN TIME FOR PUBLICATION**

**DEPOSITION OF CHARLES J. PEACOCK
IN RE: S. RES. 120**

TUESDAY, JANUARY 16, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES J. PEACOCK, called for examination pursuant to notice of deposition, at 1:25 p.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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Charles J. Peacock DEPOSITION NUMBER	IDENTIFIED
CP Exhibit 1	20, 1112

PROCEEDINGS

MR. BARTOLOMUCCI: Good afternoon, Mr. Peacock. My name is Chris Bartolomucci. I'm the associate special counsel with the Special Committee to investigate Whitewater with the Majority staff. Before we begin, there are some preliminary matters I need to discuss for the record.

This is a deposition being conducted pursuant to Senate Resolution 120. That resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation and certain other related matters including matters pertaining to Madison Guaranty Savings & Loan.

This deposition is being conducted in advance of public hearings. You may or may not be called to testify at those hearings. We'll let you know.

I'm going to be asking you questions under oath. If at any time you don't understand a question, please let me know and I'll rephrase it for you. And tell me if you need a break, and we'll take

4

one if need be.

The stenographer is going to prepare a record of questions and answers, and this deposition will be treated as what we call committee confidential until the commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come, if you wish, to the Senate to review the transcript of your deposition and make any corrections on an errata sheet.

If you are called to testify at a public hearing, you'll also be given a copy of your deposition four days in advance of the hearing.

I see you're not represented by counsel today, but you are aware that you had that right; am I right there.

MR. PEACOCK: Yeah.

MR. BARTOLOMUCCI: Okay. Objections to the form in which a question is posed will be noted for the record. Objections may also be raised to questions on grounds of privilege or scope, and if there are any objections to a question, the Committee

1 Chairman may rule upon them.

2 You want to go ahead and swear the
3 witness.

4 Whereupon,

5 CHARLES J. PEACOCK

6 was called as a witness and, having first been duly
7 sworn, was examined and testified as follows:

8 EXAMINATION

9 BY MR. BARTOLOMUCCI:

10 Q Please state your full name for the
11 record.

12 A Charles J. Peacock.

13

14

15

16

17 Q Mr. Peacock, did you live in Bald Knob in
18 1985?

19 A I did.

20 Q Where is Bald Knob in relation to downtown
21 Little Rock?

22 A About 55 miles northeast.

1 Q Could you briefly sketch for us your
2 educational background.

3 A University of Arkansas and several sub
4 courses and specialty courses in real estate,
5 marketing and some other things. And I also have
6 some background in ichthyology, which is the study of
7 fish.

8 Q And you have at least one son; am I
9 correct?

10 A I have three sons.

11 Q Will you tell us their names?

12 A Charles Peacock, IV, R.J. Peacock, and Ken
13 Peacock.

14 Q Do you or any of your sons go by nicknames?

15 A Charles, IV goes by Chuck.

16 Q Goes by Chuck. What was your line of
17 business in 1985?

18 A Farming and land development.

19 Q And how about now what do you do?

20 A I work as a consultant, and I build tanks.

21 Q What kind of matters do you consult on?

22 A Agricultural matters.

1 Q And what sorts of tanks are these that you
2 build?

3 A For water storage, farm storage, waste
4 material storage.

5 Q Now, I'm right, aren't I, that you know Jim
6 McDougal?

7 A I do know Jim McDougal.

8 Q How long have you known Mr. McDougal?

9 A Oh probably 15, 20 years.

10 Q And have you also had business dealings
11 with Mr. McDougal?

12 A Unfortunately, yes.

13 Q Can you describe those dealings, tell us
14 what you did with him?

15 A Well, when they started the development of
16 Madison's Maple Creek Farms, they were selling more
17 lots than they could get prepared. And there wasn't
18 any way -- the people were ripping them off in
19 building roads and he hired us to come up and clear
20 off the lots and build the roads and put in the lakes
21 and so on and so forth.

22 Q So you did development work for the Maple

1 Creek development?

2 A Right.

3 Q Was that the first deal you had with
4 Mr. McDougal?

5 A Right.

6 Q Do you know what year that was?

7 A I don't remember what year it was.

8 Q Was it in the '80s?

9 A It would have been whenever they developed
10 that, but that's been a long time ago.

11 Q Okay. Am I also correct that you were once
12 a director of Madison Guaranty?

13 A I was.

14 Q Do you know from what, during what years
15 you were a director?

16 A I don't remember. I figure you know more
17 about my business than I do.

18 Q Well, I doubt that's true, but we're here
19 to see what you remember. Do you remember how you
20 came to be a director of Madison?

21 A Yes. I had put my family's stock and my
22 stock together, and McDougal needed somebody on the

1 board, so they elected me to be on the board there as
2 a minority -- representing the minority stockholders.

3 Q You were elected by who to be on the board?

4 A The whatever -- whoever was on the board at
5 the time.

6 Q Did McDougal or someone else specifically
7 approach you about being on the board?

8 A He did.

9 Q And do you remember the circumstances under
10 which you ceased to be a director of Madison?

11 A Yes. I got too busy to be a director and
12 make the meetings right there with all the work I had
13 to do.

14 Q So did you resign?

15 A I resigned. They put my son on in my
16 place.

17 Q Which son is that?

18 A That's Chuck.

19 Q Chuck. And again, do you remember when it
20 was that you resigned from the board?

21 A I do not.

22 Q What did you do as a director of Madison?

10

1 A I worked on new business primarily, trying
2 to get people to transfer their commercial accounts
3 to Madison and get new customers and solicit
4 deposits.

5 Q Now, I have read a press account that you
6 left the Madison board of directors on April 2nd of
7 1985. Does it sound to you like that date might be
8 right?

9 A I don't remember.

10 Q Okay. Were you also a shareholder in
11 Madison?

12 A I was.

13 Q Do you know when you first began to own
14 stock in Madison?

15 A When McDougal first bought Madison out, and
16 I felt like it would be a good operation since the
17 Stevens Corporation had loaned him the money to buy
18 it with. I had always had a lot of confidence in
19 Whit Stevens.

20 Q So you first bought stock in Madison when
21 McDougal started to become involved?

22 A I owned stock in the original Madison and

1 McDougal insisted that he buy all the large
2 stockholders out. So I took the money that he bought
3 out and picked up the little minority shares here, 10
4 or 15 shares in different places.

5 Q Do you remember what percentage of the
6 stock you owned at its peak?

7 A I don't know. 3 or 4 percent, something
8 like that. It wasn't much.

9 Q Do you remember being deposed in 1987 in
10 connection with a suit between Madison and Dixie
11 Continental Leasing?

12 A Yes, sir.

13 Q One of the answers you gave in that
14 deposition is that "we were small stockholders but
15 until the clan started diluting it down and playing
16 with it out there, we were the second largest
17 stockholders."

18 A That's probably true because McDougal owned
19 everything else, see.

20 Q So you were the second largest, but --

21 A 2 percent or 1 percent would have been the
22 second largest, see.

1 Q I see. Just for the record, that's page 28
2 of deposition in a case styled Madison Guaranty
3 Savings & Loan versus Dixie Continental Leasing,
4 deposition of Mr. Peacock on April 15th, 1987.

5 Was anyone else in your family a
6 shareholder in Madison?

7 A My father and mother had some stock in it,
8 my mother-in-law and father-in-law had stock in it,
9 and my brother Joe had stock in it.

10 Q What about your boys?

11 A I think they had some stock in it. It
12 wasn't a lot, but they had some.

13 Q In 1985 did you have a checking account at
14 Madison Guaranty?

15 A I'm sure I did.

16 Q Do you know Jim Guy Tucker?

17 A I just know him when I see him.

18 Q But you don't know him personally?

19 A No.

20 Q Have you ever had any business dealings
21 with him?

22 A Not that I know of.

- 1 Q Did you know J.W. Fulbright?
2 A Yes. I knew him back when I was just a
3 kid.
4 Q So you knew him personally?
5 A Well, I'd met him a few times. I wouldn't
6 say it was personally.
7 Q Did you ever have any business dealings
8 with Senator Fulbright?
9 A Did I ever have any business.
10 Q Any business dealings?
11 A No, sir.
12 Q Do you know Bill Clinton?
13 A Not really.
14 Q You've met him?
15 A I've met him.
16 Q And again no business dealings?
17 A No.
18 Q Do you know Brett Pharis, used to be a
19 Madison employee?
20 A I'm sure I've met him, but I don't really
21 know if I'd know him.
22 Q How about John Latham?
-

- 1 A I met John and had some dealings with John.
2 Q Were these dealings in connection with your
3 position as a director of Madison?
4 A That's been 10 years ago. I don't remember
5 what they were.
6 Q Okay. Can you tell us what Dixie
7 Continental Leasing was?
8 A It was a development company that we had to
9 develop a real fancy, high class trailer park and a
10 shopping mall set-up. McDougal would have called it
11 a red neck shopping mall.
12 Q You were the president of Dixie
13 Continental?
14 A I was.
15 Q And you say it was formed to do this
16 specific trailer park development?
17 A Well, I'd already done some other
18 developments with Dixie Continental for years. It
19 was an old corporation.
20 Q But you're saying then that the major piece
21 of work it did was on this trailer park development?
22 A Right.

1 Q Do you remember the name of this
2 development?

3 A No, it was on Woodson Lateral Road.

4 Q Do you remember anything else about it?

5 A We had it all developed and ready to go to
6 start placing things in and McDougal couldn't get the
7 water across the road and the sewer system across the
8 road that he promised us.

9 Q So McDougal owned the development?

10 A I think Madison owned the development to
11 start with and then I bought it from them, see?

12 Q I see. But this is not the Maple Creek
13 development?

14 A No, it's not. It's across the interstate
15 from Maple Creek.

16 Q Now Mr. Peacock, are you aware of a
17 fundraiser held on April 4th, 1985 at the offices of
18 Madison Guaranty?

19 A I have been reminded of that by the press
20 for three or four years.

21 Q Now, do you know for whose benefit the
22 fundraiser was held?

1 A It was for Bill Clinton.

2 Q And did you attend the fundraiser?

3 A I did.

4 Q Do you remember about how many people were
5 there?

6 A Oh, it was probably 75 or 80 people.

7 Q Do you have an idea of how long it lasted?

8 A I don't remember.

9 Q Was it held in the evening, the afternoon?

10 A It was at night if I remember right.

11 Q How did you come to attend the fundraiser?

12 A A friend of mine from -- was head of the
13 highway commission, Mr. Smith, had asked that I come.

14 Q Is this Steven Smith?

15 A No. This was -- he was from Birdeye, with
16 the highway department. I'll think of his name in a
17 minute. I've got this problem. They call it Old
18 Timer's disease, and I don't remember a lot of
19 things.

20 Q Okay. Well, if you think of his first
21 name, please tell me. And so this Mr. Smith --

22 A That's Maurice Smith.

- 1 Q Maurice Smith?
2 A Yes.
3 Q He asked you to come to the fundraiser?
4 A Right.
5 Q Do you remember when he did that?
6 A I don't remember when. But he was giving
7 me an opportunity to vote on a horse or bet on a
8 horse that had already run the race, and that was
9 something I'd never been able to do before. I always
10 had to make my political contribution before the
11 horse run.
12 Q What do you mean you had to bet on a horse?
13 A Well, Bill Clinton, he was already
14 governor.
15 Q So you understood that this fundraiser was
16 to pay down --
17 A His debt.
18 Q -- debt incurred in the previous election?
19 A Right.
20 Q So you thought --
21 A And this was the highway commissioner,
22 state of Arkansas, long-time friend of mine and we

- 1 owned 10,000 acres at that time in east Arkansas, and
2 consequently I have a four-lane highway right now in
3 front of the farm. I don't know if this had anything
4 to do with it or not, but it didn't hurt the
5 community.
6 Q Did this Mr. Smith say anything to you like
7 I'm sure the governor would sure appreciate you
8 attending the fundraiser?
9 A I don't remember what he said.
10 Q Did Governor Clinton attend the fundraiser?
11 A No.
12 Q He didn't show up?
13 A Huh-uh.
14 Q Was Mr. McDougal there?
15 A I think he was there.
16 Q What about Jim Guy Tucker? Do you remember
17 if he was there?
18 A I didn't see him.
19 Q Is that you don't remember seeing him or
20 your memory is that you didn't see him there?
21 A I don't remember seeing him there if he
22 was.

1 Q Okay. What about Senator Fulbright?

2 A I don't remember seeing him there either.

3 Q I'm going to show you a list of names that
4 I drew up, and if you would, please tell me whether
5 you remember any of these people being at the
6 fundraiser.

7 (Witness reviewed the document.)

8 A Gosh, that's been 10 years ago. I don't
9 remember who was there.

10 MR. PORTNOY: Let's go off the record for a
11 second.

12 (Discussion off the record.)

13 BY MR. BARTOLOMUCCI:

14 Q All right. We're going to mark this list
15 as an exhibit, and again, do you -- just go down the
16 list and tell me whether you remember if any of these
17 people attended the fundraiser.

18 A Young man, I don't remember if any of them
19 were there or were not there. I do know that Jim was
20 there because he was up in his office, I think. I
21 don't remember whether Susan was there or not.

22 Q By Jim, you mean --

1 A Jim McDougal.

2 Q And Susan McDougal?

3 A Charles Peacock III was there.

4 Q Sure.

5 A These others I don't, I don't recall.

6 Q What about your son Ken?

7 A I don't remember whether Ken was there or
8 not. I think he was, but I don't know.

9 Q Do you remember whether Dene Landrum was
10 there?

11 A Dene was there.

12 Q He was there?

13 A Uh-huh.

14 Q And Dene was your business partner at the
15 time?

16 A Right. Dene wouldn't miss out on anything
17 that had a little bit of show to it or a party or if
18 he could put on a black tie and go somewhere, Dene
19 loved it. I'd rather be in my overalls.

20 (CP Exhibit 1 identified.)

21 (Discussion off the record.)

22 BY MR. BARTOLOMUCCI:

1 Q Mr. Peacock, can you tell me what happened
2 at the fundraiser? Was it just sort of a cocktail
3 party?

4 A It was kind of a cocktail party.

5 Q Did anyone make sort of a speech or public
6 announcement?

7 A If I remember right, Maurice Smith made a
8 little talk and thanked everyone for showing up.

9 Q And that's the same fellow who invited you
10 to come in the first place?

11 A Uh-huh. I bought calves from Maurice Smith
12 in 4-H, and we bought bulls from him and our families
13 had been friends for umpteen years.

14 Q Did someone at the fundraiser collect
15 checks or donations?

16 A I believe that Maurice did.

17 Q Did Mr. Smith ask you to make a donation?

18 A Well, he suggested it would be real nice if
19 I did, and I been in politics all my life. I
20 understood, you know, the governors or the senators
21 or all of them have to have funds if they're going to
22 operate, and it's a damn sight easier to get in to

1 see them if you've helped them than if you've never
2 done anything for them.

3 Q So did you make a donation at the
4 fundraiser?

5 A Right.

6 Q It's been widely reported that in
7 connection with the fundraiser, the Bill Clinton
8 campaign received two \$3000 Madison Guaranty
9 cashier's checks, one bearing the name Ken Peacock,
10 and the other bearing the name Dene Landrum. Now,
11 you've been quoted in the press as saying that you
12 caused these checks to be donated; is that correct?

13 A I bought the checks.

14 Q You bought those two checks that I've
15 described?

16 A Uh-huh.

17 Q And again in the press, your son, your son
18 Ken Peacock has denied knowing anything about the
19 donations. Did you tell him that you had made a
20 donation in his name?

21 A I don't think I did. Ken was one of these
22 young men, and I'm proud of him, he's a super

1 Christian and if he would have thought that I was
2 trying to do anything to influence to get him a job
3 with the governor when he got out of law school he'd
4 be upset. I knew if there was anyone in Arkansas
5 that could help him get a job as a young lawyer, the
6 governor would be the man to help and I felt he
7 wouldn't forget him.

8 Q You are saying you paid for these checks
9 and had them donated to Bill Clinton because you
10 thought it might help your son get a job?

11 A That's one of them. And Landrum needed a
12 favor out of the governor on a friend's kids to get a
13 scholarship and he felt that might help him.

14 Q So that's why you bought a check in
15 Mr. Landrum's name?

16 A Right.

17 Q And would you tell me again what kind of a
18 favor Mr. Landrum was looking for?

19 A He had a friend that had some kids that
20 were, they were rated real high scholastically and he
21 was looking for the scholarship that the governor can
22 give out I believe 16 or something a year in Arkansas

1 to different colleges and he felt that would
2 influence it there.

3 Q Did they get the scholarship?

4 A I don't know.

5 Q I want to show you a couple of documents.
6 These appear to be Madison Guaranty guarantee cashier
7 checks, both are in the sum of \$3000. Both are dated
8 April 4th, 1985. Both are payable to Bill Clinton
9 and on one, the remitter is listed as Ken Peacock, on
10 the other the remitter is Dene Landrum. The Dene
11 Landrum check is numbered Q 2498, and the Peacock
12 check is numbered Q 2497. The only identification
13 numbers that the documents have are D-3 and D-5.

14 Now, are these the -- do these appear to be
15 the checks that you purchased?

16 A I'm sure they are.

17 Q I believe I've also read in the press that
18 you initially denied having anything to do with these
19 checks; is that correct, that you initially denied?

20 A I don't remember denying having anything to
21 do with the checks. Of course the press have
22 misquoted me more times than they've ever gotten

1 anything straight. You know, the press is
2 sensationalism. They love to make a big story out of
3 a mole hill or whatever, and I've got just about as
4 much confidence in the press as I have in a rattle
5 snake.

6 Q But you're telling us today that you did
7 pay for them?

8 A I bought those at the same time I was
9 spending probably 10,000 a week on diesel fuel to run
10 my equipment.

11 Q What's the relationship between your diesel
12 fuel?

13 A I'm talking about the fact that everybody
14 has been excited about me spending \$6000 to a
15 governor's campaign when my expenses were probably
16 running \$50,000 a month.

17 Q The point you're making is that this wasn't
18 necessarily a significant amount of your money?

19 A It wasn't a significant amount at that
20 time. Now today it would be a hell of a significant
21 deal because I'm broke. But then I was busy farming
22 and making money.

1 Q Were you aware when you bought the checks
2 that in Arkansas in 1985 it was illegal to donate
3 more than \$1500 per candidate per election?

4 A I was not aware of that.

5 Q Were you aware that in Arkansas in 1985 it
6 was illegal to make a contribution in a name other
7 than that by which you were known for legal purposes?

8 A I wasn't aware of that either. The FBI
9 told me it was a felony and I said lock me up and
10 take me on because I've been kicked and wrassled
11 around so damn much on this deal that I'm just wore
12 out.

13 Q Do you remember how you paid for these
14 checks?

15 A I don't remember how I paid for them,
16 whether I paid for them with a check or whether I
17 paid for them out of funds or what I did.

18 Q I'm going to show you another document.
19 Appears to be a Madison Guaranty check in the amount
20 of \$6000 dated April 4, 1985, and it looks like it
21 bears your signature. Does that photocopy look
22 familiar to you?

1 A I don't remember it. Like I say, that's 10
2 years ago. But it probably is.

3 Q Does that appear to be your signature on
4 the check?

5 A It really doesn't look like my signature,
6 but I don't -- I'm not saying anybody forged it or
7 anything. But I'd have had to pay for them some way
8 and that would have been as good as any other way.

9 Q Just for the record, this is a document
10 which is labeled D-2.

11 Now, I also want to show you another
12 document which is a Madison Guaranty cashier's check
13 payable to Madison in the amount of \$4, the number on
14 the check is Q 2499 and the remitter is Charles
15 Peacock III. The document bears identification
16 number D-7.

17 Mr. Peacock, does this check look familiar
18 to you?

19 A I think we charged \$2 for each cashier's
20 check, so it very likely is.

21 Q So in other words you bought the cashier's
22 check to pay the \$4 fee on the 2 \$3000 checks that

28

1 you purchased?

2 A I'm sure that's what happened. I don't
3 remember but that stands to reason.

4 Q Do you remember why you bought a cashier's
5 check for \$4 instead of paying \$4 in cash?

6 A Yes, sir. I wanted to make damn sure the
7 governor knew where the money came from.

8 Q So you wanted there to be a record that you
9 were ultimately behind the two checks?

10 A Right.

11 Q Going back to the \$6000 check that I showed
12 you, you believe this is probably a check that you
13 wrote to pay for those two checks?

14 A It probably is.

15 Q Did you purchase the two \$3000 checks
16 during the course of the fundraiser?

17 A That's 10 years ago. I don't know when I
18 purchased them.

19 Q Since all these documents are dated April
20 4th, 1985, do you have any doubt that that's the day
21 on which you did the transaction?

22 A That's probably the day that they were

1 purchased.

2 Q But, you have no memory as to whether you
3 bought the checks in the course of the fundraiser at
4 Madison?

5 A What do you mean "in the course of the
6 fundraiser"?

7 Q During the period in which it was held,
8 during the party?

9 A Oh, I don't know. I'm sure that if it was
10 held at night the bank probably wasn't even open at
11 that part. So in that case, it had to have been
12 bought earlier, I'm sure.

13 Q And you're sure you bought them at Madison
14 itself?

15 A Right.

16 Q You were physically there?

17 A Right.

18 Q Do you remember who you dealt with at
19 Madison to do this transaction?

20 A I don't remember.

21 Q Do you remember who you physically gave the
22 checks to to make the donation?

30

1 A I gave them to Maurice Smith.

2 Q Now, you told me that you had one of the
3 checks made out in your son's name because you
4 thought it might help him. He was in law school,
5 maybe he would get a job through it.

6 If that's the case, why didn't you tell him
7 that you had made a donation?

8 A I told you that a while ago. You didn't
9 listen.

10 Q I was listening. I want you to say it
11 now.

12 A No, Ken would have been upset, I'm sure, if
13 he thought his dad was trying to buy him a position
14 in the state right there. And so there wasn't any
15 need to tell him. Of course he still gets a
16 Christmas card from the President and I'm sure he
17 gets invited to all of the high dollar fundraisers.

18 Q Did Dene Landrum know that you had made out
19 the check for him?

20 A It was Dene's idea. He was there with, and
21 if I recall right, Dene gave the check, his check to
22 Maurice.

1 Q So if Dene was there, you said that Dene
2 was at the fundraiser party with you, does that mean
3 that you handed over the checks to Mr. Smith during
4 the course of the party that evening?

5 A I'm sure it was sometime during the party.

6 Q Was Mr. Landrum with you when you purchased
7 the checks?

8 A Now, look, fella, you are going back 10
9 years ago. I don't remember whether Dene was there
10 with me or not.

11 Q I'm just asking you what you remember.

12 A I'm just telling you.

13 Q I realize it was a while ago --

14 A Yeah.

15 Q -- and I just want to know.

16 A I don't even remember what I did last week.

17 Q Did anyone other than Mr. Smith ask you to
18 attend the fundraiser or to make a contribution?

19 A My brother did, Joe, the attorney.

20 Q Was he involved in the Clinton campaign
21 somehow?

22 A Well, Clinton was his professor in law

1 school and they'd been friends for years and years.

2 Q Was he involved in the fundraiser somehow?

3 A I don't recall that he was, but I'm sure he
4 had an interest in anything to help his buddy.

5 Q So he, your brother, encouraged you to make
6 a donation?

7 A Right.

8 Q What about Jim McDougal? Did he ever
9 encourage you to make a donation?

10 A I don't recall that he ever did.

11 Q Do you know whether you spoke with him
12 about the fundraiser?

13 A Like I say that's been 10 years ago.

14 Q Referring again to the \$6000 check that we
15 were discussing earlier, this appears to be a counter
16 check. It's not one from your checkbook. It doesn't
17 have your name or address in the corner.

18 A I didn't -- a lot of times I didn't use one
19 that was my name on it. I used the cheapest check I
20 could get. They all spent the same way.

21 Q But you did have a -- you did have an
22 account at Madison Guaranty?

1 A I'm sure I had two or three accounts at
2 Madison.

3 Q What I'm trying to get at, is it possible
4 that when you purchased this check you just didn't
5 have your checkbook with you, or do you think this
6 was one of your regular accounts that merely didn't
7 bear your name and address in the corner?

8 A I'm sure it's one of the regular accounts
9 right there. I never have been real excited about
10 having a fancy check. One of them would get money
11 out of a bank just as good as another will if you got
12 anything in there.

13 MR. PORTNOY: Let -- the record might
14 reflect that the account number appears to be printed
15 on the check rather than handwritten as is usually
16 the case on counter checks, just to make the record
17 clear.

18 MR. BARTOLOMUCCI: Well, you could --

19 MR. PORTNOY: I'm just reflecting.

20 BY MR. BARTOLOMUCCI:

21 Q There's another document I have. It
22 appears to be a copy of a Madison Guaranty cashier's

1 check again in the amount of \$3000. The remitter on
2 the check is J.W. Fulbright. It says "pay to the
3 order of Bill Clinton Campaign Fund." The number on
4 the check is Q 2496 which places it sequentially
5 immediately prior to the two that you purchased in
6 the names of your son and your business partner. Do
7 you know anything at all about this check?

8 A I do not, but the number of cashier's
9 checks that we sold at Madison was very, very few, so
10 that could have been a span of two or three days. We
11 didn't sell that many cashier's checks.

12 Q Well, I'll note that the date is April
13 4, '85 so this one was purchased the same day as the
14 two that you purchased, but you have no knowledge
15 about this check?

16 A No, I do not.

17 Q In connection with that fundraiser, did you
18 make any other contributions in the name of someone
19 other than yourself?

20 A No.

21 Q I want to show you another document. This
22 is again a Madison Guaranty cashier's check dated

1 April 4, 1985. And it says "payable to the account
2 of Charles Peacock III," and the amount of the check
3 is \$50,000. Do you remember why Madison Guaranty
4 wrote you a check for \$50,000 on April 4th, 1985?

5 A I really don't remember.

6 Q Would it refresh your recollection if I
7 were to suggest that this was -- this check was
8 written in connection with a loan that you took out
9 from Madison?

10 A It could have been.

11 Q Let me show you another document which
12 appears to be a loan form. It appears to reflect
13 that you took out a loan from Madison in the amount
14 of \$50,000 on April 5th, 1985. I'm going to show you
15 this document. Does that refresh your recollection
16 at all about why you received \$50,000 from Madison on
17 April 4th, 1985?

18 A I don't remember exactly why.

19 Q I have another document which is another
20 loan form which reflects that Dixie Continental
21 Leasing borrowed 297,000 from Madison on April 4th,
22 1985. I'm going to show that to you. Does that

1 document refresh your recollection at all?

2 A This is property that I bought from
3 Madison, if I remember right, where I told you we put
4 the trailer park.

5 Q Was that the Maple Creek property?

6 A No, this was not the Maple Creek. This was
7 the Woodson Lateral property.

8 Q Mr. Peacock, do you remember being
9 interviewed by a man named Ken Plunk in 1986? He was
10 an investigator with the firm of Borod & Huggins.

11 A I don't remember.

12 Q Well, I have a document prepared by the
13 firm of Borod & Huggins which indicates that Dixie
14 Continental Leasing agreed to purchase approximately
15 30 acres of raw land located on Woodson Lateral Road
16 in the Pine Bluff Freeway on April 4th, 1985. Dixie
17 paid 335,000 for the land and borrowed 297,000 from
18 Madison Guaranty to finance the purchase. The
19 difference between the purchase price and the amount
20 of the loan was paid in cash as a down payment
21 according to Peacock; is that correct to the best of
22 your recollection?

1 A I don't remember.

2 Q I want to show you a document which is the
3 Madison Guaranty check from your account dated April
4 5th, 1985, payable to Quapaw Title Company,
5 Q-u-a-p-a-w. The amount of the check is \$38,940.
6 I'm going to show that to you.

7 Do you remember why you wrote that wrote
8 for nearing 39,000?

9 A I don't remember.

10 Q So thus far, we've seen that on April 4th,
11 1985, Madison wrote you a check for \$50,000. On that
12 same day, you filled out a loan form in which you
13 borrowed 297,000 from Madison and that on loan form
14 dated April 5th, 1985 you filled out a loan form so
15 that you could borrow \$50,000 from Madison Guaranty.

16 Could it be that the \$50,000 check was
17 meant to fund the loan, that \$50,000 loan?

18 A I don't know. I don't remember.

19 Q Is it possible that the \$50,000 was meant
20 to act as a down payment on the property that you
21 purchased in connection with the 297,000 loan?

22 A I don't remember.

1 Q Let me ask you again, do you remember now
2 why you were paying Quapaw Title Company \$38,940 on
3 April 5th?

4 A I don't remember.

5 Q Do you remember a lawsuit between Madison
6 Guaranty Savings & Loan and Dixie Continental
7 Leasing?

8 A No, I don't.

9 Q 1987? Earlier you said you remembered
10 being deposed in connection --

11 A Yeah, but I don't remember the lawsuit.

12 Q Do you remember what the lawsuit concerned?

13 A I don't remember.

14 Q Do you remember putting up air conditioning
15 equipment as collateral to secure a loan that you
16 received from Madison Guaranty?

17 A I did one time. I don't remember which
18 loan, but I remember that it was about probably 150,
19 200,000 worth of new air conditioners and I turned
20 them over to FSLIC and they sold them to someone in
21 Little Rock for \$1500, or the RTC bunch did, which I
22 thought was stupid.

1 Q Why did they have to sell the air
2 conditioning equipment?

3 A Well, I turned it, they foreclosed on a
4 loan or something, and so I just gave it to them and
5 everything.

6 Q You didn't repay the loan?

7 A I didn't repay the loan.

8 Q This loan form I showed you earlier which
9 reflects the \$50,000 that you borrowed from Madison
10 appears to indicate that you put down air
11 conditioner -- air conditioning equipment as
12 collateral.

13 Is that consistent with your memory that
14 the --

15 A That's probably the way it was. You got it
16 right there in black and white?

17 You are talking about not paying the loan
18 on that thing. They never did give me water. I made
19 the complete development, got it altogether, got
20 streets in, the engineering, and they never got me
21 water or sewer over there as McDougal had promised.
22 And I didn't feel like I was obligated at that point.

1 Q So you borrowed the money to purchase this
2 piece of property?

3 A Right.

4 Q McDougal was supposed to put in some --

5 A Sewer and water.

6 Q -- utilities?

7 A Uh-huh.

8 Q And that never happened. You didn't pay
9 back the loan?

10 A I think that's what happened right there.

11 Q Could it be that this is the subject of the
12 lawsuit that I referred to?

13 A I don't remember. It could be.

14 Q You think it's likely, likely to be?

15 A Well, I don't know. I don't remember. I
16 can say it's been a long time ago, and I tried to
17 forget everything I could have to do with Madison.
18 They cost me so much money, threw me into bankruptcy
19 and I just -- you know, you get fed up and sick of
20 something right there. It was just to the point that
21 I just tried to just forget everything.

22 Q In your deposition of April 1987 in that

1 case, Madison Guaranty versus Dixie Continental
2 Leasing, you said that McDougal took your down
3 payment money and took it down and made a down
4 payment on the 145th Street property which happens to
5 be involved with Mr. Jim Guy Tucker and several other
6 people.

7 Do you remember making that statement, or
8 what that was about?

9 A I don't remember, but if that's what I
10 said, that's probably what happened.

11 Q Do you have any memory of Mr. McDougal
12 taking money that you had put up as down payment and
13 using it for another purpose?

14 A I don't. I just don't remember.

15 Q Now, if I'm right, it was your recollection
16 that the 297,000 loan was for the purchase of the
17 Lateral Road property?

18 A I think that's right.

19 Q Okay. In this Borod & Huggins document
20 that I showed you previously, and this was based upon
21 an interview that you gave to Mr. Plunk, the Borod &
22 Huggins document says that Dixie paid 335,000 for the

1 land and borrowed 297,000 from Madison Guaranty to
2 finance the purchase.

3 So part of that is consistent with what you
4 remember, that the 297,000 loan was to buy this land?

5 A I think that's so.

6 Q Okay. Now the difference between 297
7 and -- that is 297,000 and 335,000 is \$38,000.

8 That seems to be very close to the amount
9 of the check that you wrote for -- wrote to Quapaw
10 Title Company, which was for \$38,940. Does any of
11 this refresh your recollection about the purpose of
12 this check?

13 A I don't remember.

14 Q Do you think based upon what you told
15 Mr. Plunk in the Borod & Huggins interview and these
16 numbers that this check likely was to pay for -- that
17 this check was written in connection with the
18 purchase of the Lateral property?

19 A Like I'm telling you, I don't remember.
20 That's been so long ago.

21 Q As I read before, the Borod & Huggins
22 document indicates that you made -- you paid your

1 down payment in cash. Do you have any memory of
2 doing that?

3 A I don't.

4 Q Now, on the assumption that the \$50,000
5 loan that you took out from Madison Guaranty on April
6 4th or April 5th was in connection with the purchase
7 of this Lateral Road property and similarly that the
8 \$38,940 check to Quapaw title was in connection with
9 the purchase of this property, do you have any memory
10 of what you did with the surplus between the 50,000
11 and the 38,940?

12 A I don't.

13 Q Do you have any memory at all about taking
14 out these loans?

15 A About what now?

16 Q About borrowing the money. I'm referring
17 to the two loans, the 50,000 and the 297,000 loans.

18 A I don't remember what happened back then.

19 Q Well, the dates on the documents indicate
20 that they're apparently filled out the same day as
21 the fundraiser. Does that assist your memory in any
22 way?

1 A No, it doesn't.

2 Q So in your -- there's no connection in your
3 mind between the fundraiser and these loans?

4 A I don't think so.

5 Q You told me earlier that you resigned from
6 the Madison Guaranty board of directors. Was that
7 resignation done at the request of Mr. McDougal, or
8 was it your idea?

9 A I'm sure it was my idea.

10 Q You're sure that Mr. McDougal had nothing
11 to do with your decision to resign?

12 A I don't think he was the one making me work
13 so hard.

14 Q You resigned because you were working too
15 hard?

16 A I was too busy.

17 Q It's been reported in the press that
18 Mr. McDougal instructed to you resign from the board
19 shortly before you took out these loans. Do you have
20 any memory of that?

21 A I don't.

22 Q Do you remember any connection between the

1 checks that you purchased for Bill Clinton and the
2 loans that you obtained from Madison Guaranty?

3 A No, I don't.

4 Q Well, I'll note that the \$50,000 that
5 represents the sum of the check that you received
6 from Madison Guaranty is dated the same as the two
7 \$3000 checks that you purchased. To the best of your
8 recollection, there is no connection between the
9 \$50,000 check and the two \$3000 checks?

10 A I don't think so.

11 Q Did you use any part of the proceeds from
12 that \$50,000 loan to procure the two checks?

13 A I don't remember.

14 Q Do you remember talking to a reporter for
15 the publication, Newsday, a reporter named Jim Dwyer?

16 A I don't remember.

17 Q Do you remember talking to any reporter?

18 A I've talked to a bunch of reporters. I
19 usually told them I didn't have time for their
20 bullshit and I was busy. Adios.

21 Q Well, you apparently talked to this
22 reporter and in the March 25th, 1994 issue of Newsday

1 it says "did he use money borrowed from the bank to
2 make the contribution?" That's to say, he was
3 raising the question did you use part of the loan
4 proceeds to fund the political contributions that
5 were made to Bill Clinton. And then the article
6 quotes you as saying "how do you say what was money
7 that you earned and money that you borrowed?"

8 Do you have any memory of making that
9 statement?

10 A I don't.

11 Q Do you have any idea of what you meant by
12 it?

13 A I don't.

14 Q It goes on to say "when the Resolution
15 Trust Company took over the bank, it owed me about a
16 million dollars for development work that I did but
17 never got paid for. I forget how much I owed them on
18 the loans. It's all in the records, but it was
19 considerably less than they owed us." That again
20 purports to be a quotation from you.

21 Do you remember saying that?

22 A I don't remember saying it, but that's

1 about -- that's about the way it was.

2 Q Your point is that yes, you had loans from
3 Madison, but at the same time they owed you money?

4 A Right.

5 Q Your point being that it's hard to say
6 whether some money obtained from Madison was really
7 money that had been loaned to you or whether it was
8 money that was legitimately owed to you for work you
9 had done?

10 A Like I said, I don't remember what the
11 situation there was, but I do remember that we did
12 all this development work and hadn't been paid for
13 it.

14 Q Do you think it's possible that if you
15 received \$50,000 from Madison on April 4 and paid
16 about 39,000 to Quapaw on that same day, that you
17 used some of the difference, the roughly 11,000
18 there, to pay for the two \$3000 checks that you
19 caused to be donated to Bill Clinton?

20 A I really doubt it.

21 Q Why do you doubt it?

22 A Well, I could have picked up the \$6000 in,

1 you know, any one of my accounts or anywhere. So
2 there's no reason to believe, for me to believe that
3 that's where the money came from or as you're
4 suggesting that the only reason I did it was to get
5 the loan or something. That's a bunch of bull.

6 Q Can you tell me who Greg Hopkins is?

7 A He was my attorney at that time.

8 Q Do you remember what matter he, or matters
9 he represented, he represented you in connection
10 with?

11 A I don't remember.

12 Q I have a memorandum which is numbered TA
13 000238. This memorandum indicates that on April
14 21st, 1987, Mr. Hopkins, your attorney called Pat
15 Heritage, a Madison loan officer, and the memo says
16 the following. "Mr. Hopkins stated that a portion of
17 the loan proceeds made to Dixie Continental Leasing
18 went to Bill Clinton's campaign."

19 What do you make of Mr. Hopkins's assertion
20 that a portion of the loan proceeds made to Dixie
21 went to Bill Clinton's campaign?

22 A I don't know what to make of it but he

1 wouldn't have known how the proceeds went.

2 Q Do you have any idea why he would have made
3 this sort of statement?

4 A I don't.

5 Q But he was your attorney at that time in
6 1987?

7 A He's one of them.

8 Q Has anyone ever quoted from this memo to
9 you before?

10 A I don't recall.

11 Q The memo goes on to say, "in return for
12 this substantial campaign contribution, Bill Clinton
13 assured Jim McDougal that a state agency would lease
14 space from Madison at its headquarters on Main Street
15 in Little Rock."

16 Do you have any knowledge about Bill
17 Clinton assuring Jim McDougal that a state agency
18 would lease space from Madison in return for a
19 substantial campaign contribution?

20 A I don't.

21 Q I have a document which is number 25285,
22 which also concerns the conversation between

1 Mr. Hopkins and Miss Heritage, and this document says
2 "McDougal told Peacock that JGT and McDougal would
3 take care of Peacock."

4 Now, I assume that JGT is Jim Guy Tucker.
5 Do you know what would be meant by the phrase
6 "McDougal told Peacock that Jim Guy Tucker and
7 McDougal would take care of Peacock"?

8 A No, I don't.

9 Q Do you know what the Castle Grande
10 development is?

11 A That was a development on 145th Street, if
12 I recall right.

13 Q I think that's correct. Do you remember
14 who owned the property?

15 A No, I don't.

16 Q Did you do any development work related to
17 Castle Grande?

18 A Probably all of it.

19 Q I'm referring again to the interview you
20 gave to Mr. Plunk in connection with the Borod &
21 Huggins report. It says with respect to Castle
22 Grande the following. "Peacock says he thought

1 Madison Financial Corporation owned the property.
2 Consultant Plunk indicated that this investigation
3 indicated that the property is owned by Seth Ward.
4 Mr. Peacock was very surprised and plans to check the
5 county land records to ascertain ownership for his
6 own satisfaction."

7 Do you have any memory of discussing this
8 with Mr. Plunk?

9 A I don't remember it, but I had -- they owed
10 me a substantial amount across the road on this
11 property I found out later that Seth Ward owned. I
12 filed a labor material lien on it for I don't know,
13 several, maybe a couple hundred thousand dollars
14 worth of work on that one. And then my attorney,
15 Mr. Hopkins, said I didn't rework it, didn't put it
16 back -- every so often you have to go down to the
17 courthouse and reenact it and he didn't do it. The
18 next thing I know Seth Ward is out there building
19 houses on the property we had developed.

20 Q And again, you are speaking of the Castle
21 Grande property?

22 A Yeah.

1 Q The interview indicates that you were very
2 surprised to learn that Seth Ward owned the
3 property --

4 A I was.

5 Q -- or a part thereof?

6 A I'm sure I was.

7 Q You had thought that -- strike that.

8 Tell me again who you thought owned the
9 property.

10 A I thought that Madison owned it.

11 Q And at that time, were you still on the
12 Madison board of directors?

13 A I don't remember.

14 Q Did you know at the time that there was a
15 limit upon the amount of money that Madison could
16 invest in real estate, what they call the direct
17 investment rule or the 6 percent rule?

18 A No, I didn't.

19 Q After being informed that Seth Ward was an
20 owner of Castle Grande property, did you learn
21 anything else about Mr. Ward's ownership?

22 A I don't recall.

1 Q Do you know anything about Madison's sale
2 of the sewer and water utility at Castle Grande to
3 Jim Guy Tucker and R.D. Randolph?

4 A No, I don't.

5 Q I want to show you a document which is a
6 photocopy of Mr. McDougal's phone message log. And
7 it appears to indicate that on April 8th, 1985, you
8 called and left a message for Mr. McDougal. If I'm
9 reading it right, it says "left car 1:15." Did you
10 have any involvement with Mr. McDougal that related
11 to automobiles?

12 A No.

13 Q I know this is a very long time ago. Do
14 you have any idea at all what this message is about?

15 A We may have repaired his car or something.
16 I don't know. I had a mechanic working for me on a
17 job.

18 Q You think that's probably what this was
19 about?

20 A It probably was.

21 Q Another message slip reflects a message
22 left by Ken Peacock to Mr. McDougal on April 29th,

1 1985. It's kind of difficult to read. I believe it
2 says "is leaving Fayetteville to bring papers for law
3 school. Remember to transfer 200 shares of MGSL
4 stock." Then there may be a word missing. It goes
5 on to say "he and his brother."

6 A I don't remember.

7 Q But did Ken -- Ken did own stock in
8 Madison?

9 A I think all three of them had a little bit,
10 a little stock in it.

11 Q Did your son Ken and Mr. McDougal have many
12 dealings pertaining to stock that you know of?

13 A No, I don't know of. Ken ran the -- worked
14 on the Madison -- on the Maple Creek deal one summer
15 between semesters with the equipment out there and
16 did quite a bit of work. He worked 18 hours a day.

17 Q So do you have any idea what this stock
18 transfer is referring to?

19 A I don't have any idea.

20 Q Other than reporters or the FBI, has anyone
21 talked to you or tried to talk to you about the
22 fundraisers or the checks or the alleged loan

1 diversion that we've been talking about today?

2 A I've sat before the FBI about three times
3 and before the grand jury in Little Rock on this
4 thing.

5 Q Okay. Other than the FBI or reporters or
6 the grand jury, has anyone else tried to talk to
7 you --

8 A Not that I know of.

9 Q -- about these matters?

10 A Huh-uh.

11 Q To the best of your recollection, no one
12 that you would associate with Bill Clinton has
13 attempted to contact you?

14 A No. No way.

15 Q Have you ever been talked to or been
16 contacted by Bruce Lindsey?

17 A No.

18 Q How about Jim Blair?

19 A Not that I know of.

20 Q During the time that you were a Madison
21 director, did you have any knowledge of Whitewater
22 Development Corporation?

56

1 A No. Never even heard of Whitewater
2 Development until the press come up with all that.

3 Q I found a Newsweek magazine article dated
4 February 14th, 1994 in which it quotes you as saying
5 the following. "I'm a politician and as a politician
6 I have the prerogative to lie whenever I want" --

7 A That was a total misquote.

8 Q You didn't say that?

9 A I didn't say that.

10 Q What was being misquoted?

11 A The whole damn thing. That's what -- my
12 wife was in the office whenever they called me and
13 she said you never said that and I said I know it,
14 but I don't believe those bastards any way in the
15 world. Anything for a story.

16 Q Is it your position, then, that you were
17 misquoted or that this was just completely
18 fabricated?

19 A That was fabricated.

20 Q Do you know by who?

21 A Well, the guy that wrote the damn article,
22 I'm sure.

1 Q Well, this article was a compilation of
2 quotations that they've taken from other people, so I
3 don't think he particularly wrote it. Do you
4 remember --

5 A I don't remember.

6 Q Are you a politician?

7 A I don't think you can live in the United
8 States and not be a politician.

9 Q So you would call yourself a politician?

10 A Aren't you a politician?

11 Q I don't think so.

12 A Yes, you are. You are working for the
13 bureaucrat, you got to be a politician.

14 Q Well, did you say to a reporter "I'm a
15 politician"?

16 A I don't recall telling him I was a
17 politician. Like the statement I've said before,
18 these reporters will say anything or do anything for
19 a story.

20 MR. BARTOLOMUCCI: I think that's all I
21 have for now. I don't know if you want to take a
22 break before Mr. Portnoy begins his examination.

1 Would you like that?

2 THE WITNESS: I'd just as soon get it over
3 with. Maybe I can catch my plane home.

4 EXAMINATION

5 BY MR. PORTNOY:

6 Q We'll try to get you on your flight, sir.

7 A I'm trying to catch that 4:00 one.

8 Q I don't think we're going to have any
9 problem with that.

10 Good afternoon, sir, my name is Jim
11 Portnoy. I'm counsel for the Minority staff. I have
12 just a few follow-up questions to those that
13 Mr. Bartolomucci asked you.

14 Mr. Peacock, you've testified that you
15 purchased two cashier's checks in connection with the
16 April 4th, 1985 fundraiser; is that correct?

17 A That's correct.

18 Q One of those checks was in the name of your
19 son, Ken?

20 A Right.

21 Q And the other was in the name of your
22 business partner, Dene Landrum?

1 A Correct.

2 Q Just to be clear, you testified that
3 Mr. Landrum suggested that you purchase a check in
4 his name?

5 A As a matter of fact, I think Mr. Landrum
6 paid me back for the check later on in one of my
7 transactions or something.

8 Q Do you have any specific recollection of
9 when that might have occurred?

10 A I don't remember. I have trouble
11 remembering what happened last week.

12 Q But in response to my specific question, it
13 was Mr. Landrum's idea that you purchase the check in
14 his name?

15 A Right.

16 Q And whose idea was it that you purchase the
17 check in the name of your son?

18 A Sir?

19 Q Whose idea was it that you purchase the
20 check in the name of your son, Ken?

21 A I think that was Dene, too. I hadn't even
22 thought about how much of a difference it could make

60

1 right there, but I think it was Dene. But I don't
2 recall.

3 Q Prior to purchasing those cashier's checks,
4 sir, did you discuss with anyone other than
5 Mr. Landrum that you planned to purchase cashier's
6 checks in the names of people other than yourself?

7 A No.

8 Q You never discussed that, for example, with
9 Mr. Clinton?

10 A Certainly not.

11 Q Or anyone from the Clinton gubernatorial
12 campaign?

13 A No.

14 Q With Mr. McDougal?

15 A No.

16 Q No one at all except Mr. Landrum, just to
17 be clear?

18 A Right.

19 Q You also indicated, sir, that it was your
20 hope that by making generous contributions to the
21 governor's campaign you might be able to help your
22 son get a job --

1 A Right.

2 Q -- with the state?

3 Did anyone connected to the Clinton
4 campaign ever suggest to you that making a
5 contribution would help your son get a job?

6 A No.

7 Q Did Mr. McDougal ever make such a
8 suggestion?

9 A No.

10 Q Did anyone with any connection at all to
11 Governor Clinton or the Clinton administration ever
12 suggest to you that making a campaign contribution
13 would facilitate --

14 A No.

15 Q -- benefits for your son?

16 A Huh-uh.

17 Q Same question with respect to the
18 contribution in Mr. Landrum's name. Did anybody ever
19 suggest to you that by making contributions,
20 Mr. Landrum could facilitate the procuring of a
21 scholarship for his friend's child?

22 A No, this was just, this is politics. If I

1 recall right, earlier when Reagan ran, my family
2 contributed about 20,000 to that rascal and he broke
3 every damn one of us when he got through with us in
4 the farming game. So we've always made contributions
5 to politicians. And then you expect to get something
6 back, a favor, being able to go into the office or
7 ask for help or whatever.

8 Q But nobody connected with the Clinton
9 administration --

10 A No.

11 Q -- ever promised you anything?

12 A No.

13 Q Or hinted that anything would be available?

14 A No.

15 Q You were asked, sir, about a series of
16 loans and checks on April 4th and April 5th, 1985 in
17 approximately the same time as the fundraiser you
18 attended.

19 To be clear, sir, did anyone at Madison
20 offer to reimburse you if you made contributions to
21 Mr. Clinton?

22 A No.

1 Q Did anybody in fact reimburse you for the
2 contributions you made to Mr. Clinton's campaign?

3 A No.

4 Q Did anyone outside Madison ever offer to
5 reimburse you --

6 A No.

7 Q -- other than perhaps Mr. Landrum?

8 A Right.

9 Q When you were director of Madison, did you
10 have any day-to-day role in running the bank?

11 A Not in running the bank. As my position
12 was a director of new business, and I hustled, when I
13 was between jobs or nights or any time hustled
14 deposits and new business.

15 Q You didn't have any role, for example, in
16 deciding to whom Madison might lease space?

17 A No.

18 Q Did you ever discuss with Mr. McDougal the
19 prospect that the state of Arkansas might lease space
20 from Madison?

21 A No.

22 Q Did you ever discuss with anyone to the

1 best of your recollection the prospect that the state
2 of Arkansas might lease space from Madison?

3 A No.

4 Q Did you ever discuss with Mr. McDougal any
5 kind of recompense, any kind of payback he might be
6 getting from the Clinton administration in return for
7 raising funds?

8 A No.

9 Q Did you ever discuss with anyone recompense
10 or payback they might be getting in exchange for
11 raising funds for Clinton administration?

12 A No.

13 Q To the best of your recollection, were your
14 loans from Madison secured?

15 A Yes, sir.

16 Q Were they at a market interest rate?

17 A I'm sure they were.

18 Q At an interest rate available to all
19 directors?

20 A People.

21 Q And officers? So you didn't get any
22 special privileges or favors from Madison in return

1 for making those contributions, did you, sir?

2 A No.

3 Q At some time you considered yourself close
4 to Mr. McDougal, didn't you, sir?

5 A What now?

6 Q Was there a time that you considered
7 yourself close to Mr. McDougal?

8 A I figured -- I figured him a good friend
9 until he didn't come through with what he promised on
10 some of this stuff and --

11 Q He was responsible for you being hired to
12 do the development work at Castle Grande?

13 A Right. Other people he hired couldn't
14 perform and they were charging an arm and a leg.

15 Q And then he sold the land without telling
16 you?

17 A What?

18 Q Then he sold you the land without telling
19 you or at least part of it?

20 A I guess so.

21 Q The land was sold, wasn't it?

22 A Yeah, right.

1 Q Did he tell you in advance?

2 A No. I was never on the inside of the big
3 office. I was the one that ran the bulldozers and
4 ran the clearing out there, and as we say in
5 Arkansas, I did the colored boy's job.

6 Q Sir, would you say it was common for
7 Mr. McDougal to keep his business partners in the
8 dark about his dealings?

9 A He did this one. I don't know what he did
10 with anybody else.

11 Q Do you recall any other business dealings
12 you might have had with Mr. McDougal where important
13 decisions were made or important actions were taken
14 without his telling you?

15 A I don't recall.

16 Q Mr. Bartolomucci asked you whether anyone
17 outside the press or federal investigators had
18 attempted to contact you regarding any of the matters
19 we've discussed here. Just to be clear, sir, has
20 anyone in any way affiliated with either the Clintons
21 or the Clinton administration or any of the Clinton
22 campaigns ever tried to -- ever tried to induce you

1 to remember or not remember anything about these
2 matters?

3 A No.

4 Q Have they ever contacted you in any way?

5 A No.

6 Q No one has tried to some way you to tell a
7 story or not tell a story?

8 A No.

9 MR. PORTNOY: That's all I have. Thank
10 you, sir.

11 EXAMINATION

12 BY MR. BARTOLOMUCCI:

13 Q I just want to ask you a few follow-up
14 questions just to make sure the record is perfectly
15 clear. You do remember purchasing the two \$3000
16 checks dated on April 4th, 1985?

17 A That's what the checks say right there.

18 Q My question is you remember purchasing
19 them?

20 A Young man, I don't remember purchasing
21 them, but we got the evidence there, the checks are
22 there, and I'm sure I did.

1 Q So you have no doubt that you did it?

2 A I'm sure I did.

3 Q We have also seen a check that same date,
4 April 4th, 1985, which reflects that Madison paid you
5 \$50,000. But you have no memory of the purpose for
6 which you were being given \$50,000?

7 A I don't know.

8 Q You have no memory of it?

9 A I don't remember. It could have been
10 possibly for work that I'd done. You know, they
11 usually owed me from 50- to \$100,000 a lot of times
12 on work. But I don't remember.

13 Q And similarly you have no memory of the
14 purpose of the loan that you apparently took out on
15 April 4th, 1985, the \$50,000 loan?

16 A I don't remember what the deal was.

17 Q With respect to the check for 38,940
18 dollars that you wrote to Quapaw Title Company in
19 April 1985, you have no memory of the purpose of that
20 payment?

21 A No, I don't.

22 Q My last question to you is in the Borod &

1 Huggins report where it says that in connection with
2 the purchase of the Lateral Road property, you paid
3 the down payment in cash, do you have any reason to
4 doubt that that statement which was based upon an
5 interview with you is accurate?

6 A I don't remember. I just -- I don't
7 remember back then.

8 Q So there's nothing that you can recall
9 which would suggest that you didn't pay that down
10 payment in cash?

11 A I don't remember.

12 MR. BARTOLOMUCCI: Okay. I guess you're
13 going to make that flight.

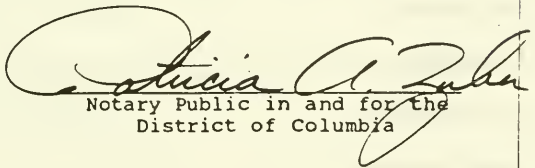
14 (Whereupon, at 2:54 p.m., the deposition
15 was concluded.)

16
17 -----
18 CHARLES J. PEACOCK
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

70

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

Fundraiser

Bill Clinton

Don Denton

J.W. Fulbright or Mrs. Fulbright

Henry Hamilton

Eugene or Alice Harris

Pat Harris

David Henley

James Henley

Dene Landrum

John Latham

Nathan Lubin

Larry Kuca

James or Susan McDougal

Charles Peacock III

Ken Peacock

Brett Pharis

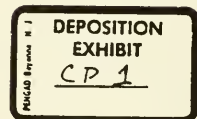
R.D. Randolph

Robert Randolph

Steven Smith

Jim Guy Tucker

Chris or Rosalee Wade



**DEPOSITION OF CAROLYN C. HUBER
IN RE: S. RES. 120**

WEDNESDAY, JANUARY 17, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CAROLYN C. HUBER, called for examination pursuant to notice of deposition, at 3:20 p.m. in Room 534 of the Dirksen Senate Office Building, before BRÉNDÁ M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
RICHARD BEN-VENISTE, Esq.
Minority Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

HENRY F. SCHUELKE III, Esq.
Janis, Schuelke & Wechsler
1728 Massachusetts Avenue, NW
Washington, DC 20036
On behalf of the Deponent.

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CAROLYN C. HUBER DEPOSITION NUMBER	IDENTIFIED
Huber Exhibit 1	74, 1191
Huber Exhibits 2 through 8	83, 1192

P R O C E E D I N G S

MR. GIUFFRA: Good afternoon, Ms. Huber.

My name is Robert Giuffra. I'm the chief counsel of the Senate Banking Committee. To my left is Alice Fisher. She is a deputy special counsel to the Majority.

Further on down the table is Neal Kravitz, who is principal Minority deputy special counsel, and then joining us in a minute will be Richard Ben-Veniste, who is Minority special counsel.

This is a deposition that is being conducted pursuant to Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

You have been deposed before. Would you want me to go through the preamble that we did previously? Would that be helpful?

MR. SCHUELKE: To what effect? I don't recall in particular.

MR. GIUFFRA: I will go through it.

You have a right to be represented by counsel here at the deposition.

Mr. Schuelke, why don't you note an appearance for the record, sir.

MR. SCHUELKE: Henry F. Schuelke of the firm Janis, Schuelke & Wechsler.

MR. GIUFFRA: I will ask you a series of questions and someone from the Minority staff will ask you a series of questions. You will be testifying under oath. If at any time you don't understand a question, let us know. We will rephrase it. If you need a break, let us know.

The court reporter will prepare a record of the questions and answers. We will get the deposition to you tomorrow morning first thing, and I would like to ask the court reporter to see if you could get us a copy of this transcript tonight, if possible.

You will be testifying tomorrow at the public hearing, as you know. Until the hearings begin, we will keep the deposition transcript -- it

1 will be treated as committee confidential, meaning it
2 won't be made available.

3 Do you have any questions?

4 MS. HUBER: No.

5 MR. GIUFFRA: Mr. Schuelke?

6 MR. SCHUELKE: No.

7 MR. GIUFFRA: Please swear in the witness.

8 Whereupon,

9 CAROLYN C. HUBER

10 was called as a witness and, having first been duly
11 sworn, was examined and testified as follows:

12 EXAMINATION

13 BY MR. GIUFFRA:

14 Q I know we went into this at your last
15 deposition. What is your present position at the
16 White House?

17 A Special assistant to the President in
18 charge, or director of personal correspondence.

19 Q You have had that position since when?

20 A February 1, 1993.

21 Q And in that capacity, what services do you
22 provide at the White House, perform at the White

1 House?

2 A I open all of the personal mail. We have a
3 personal code for the President, for the First
4 Family. It is personal mail from friends, family.
5 It comes into my office. I receive it all. I open
6 it, and then I disburse it out to the different
7 people that answer it.

8 Q Do you have any other responsibilities at
9 the White House?

10 A Yes. I take care of all of the house
11 guests that come, invite people to come overnight.

12 Q And house guests stay on the third floor of
13 the White House?

14 A And second floor.

15 Q Both third and second floors?

16 A Yes.

17 Q Do you perform any other services at the
18 White House?

19 A Yes. I pay all the Clintons' personal
20 bills, make out the checks and then they sign them.

21 Q Does Mrs. Clinton normally sign the checks?

22 A Normally, yes.

1 Q Do you perform any other services at the
2 White House?

3 A I talk on the telephone a lot to people
4 that call in, have questions. I guess that's a
5 service to the American public.

6 MR. SCHUELKE: It certainly is.

7 THE WITNESS: We have a lot of people who
8 complain, call in or want to tell the President
9 something.

10 BY MR. GIUFFRA:

11 Q How many people do you have working for
12 you?

13 A There are three permanent people.

14 Q Who are they?

15 A Helen Robinson is our receptionist, Milli
16 Alston answers the First Lady's mail plus part of the
17 President's mail, and Maureen Lewis, she answers the
18 President's mail.

19 Q Where do you have an office at the White
20 House?

21 A It is in the east wing on the second floor,
22 room 214.

1 Q Where are the rest of your staff located?

2 A I have an office here and then there is an
3 outer office where the receptionist is and then
4 another big room where they are.

5 Q To whom do you report at the White House?

6 A I am in the Oval operations. They call it
7 the Oval operations. Nancy Hernreich is over our
8 Oval operations.

9 Q Ms. Hernreich is the President's assistant?

10 A No. She is a deputy something to the
11 President.

12 Q She would be your immediate supervisor?

13 A Yes.

14 Q You also report to Mrs. Clinton?

15 A Yes.

16 Q And to the President?

17 A Yes.

18 Q Do you report to anyone else?

19 A No.

20 Q You don't report to Maggie Williams?

21 A No.

22 Q Do you have an office within the residence

1 of the White House?

2 A There is an office up there. I store files
3 up there.

4 Q This is the office on the third floor of
5 the White House?

6 A Yes, sir.

7 Q I believe we talked about this at your last
8 deposition. There is a desk in the office?

9 A Yes.

10 Q It is approximately how large?

11 MR. KRAVITZ: The office or the desk?

12 MR. SCHUELKE: Hold on a second. When you
13 use the term "office" on the third floor in the
14 residence, I think you need to specify because I'm
15 not sure that you and the witness are talking about
16 the same space at the moment.

17 You recall in her earlier deposition she
18 testified concerning an office on the third floor in
19 the residence which had a closet?

20 MR. GIUFFRA: Yes.

21 BY MR. GIUFFRA:

22 Q Is that the office you are referring to?

10

1 A Yes.

2 Q There is a room, it has a desk in it, and
3 it also has this closet where the documents that were
4 in Mr. Foster's office were placed for some time?

5 A Yes.

6 Q Approximately how large is that office?

7 A That room is probably around 12 by 15. I'm
8 not good at numbers.

9 Q When you refer to the office you sometimes
10 use at the residence, that's the office?

11 A Yes. I very rarely use that office.

12 Q Approximately how often would you use that
13 office?

14 A I would say last year I was not in it using
15 it more than -- because my boxes are not even in that
16 room anymore. So, I was not really using it at all
17 in the last seven or eight months.

18 Q Would you say occasionally?

19 A Uh-huh, yes.

20 Q Does Mrs. Clinton use that office?

21 A Very rarely. She was using it doing her
22 book lately, but that is all she uses it for. It

1 really has a computer in it. Chelsea uses it to do
2 her lessons.

3 Q The boxes -- you testified previously that
4 there were some records of the Clintons, personal
5 financial records that were in the closet in that
6 office. Do you recall that?

7 A Yes.

8 Q You have moved those records to your office
9 space?

10 A No, sir. They are still on the third
11 floor.

12 Q They are still there.

13 MR. SCHUELKE: Not still there.

14 THE WITNESS: Not in that closet. They are
15 in another closet.

16 BY MR. GIUFFRA:

17 Q Where are those documents?

18 A They are in another back area. They had to
19 put in air conditioning ducts and they nailed up the
20 closet.

21 Q That closet has been sealed off?

22 A Yes.

1 Q And you have another storage area that you
2 use on the third floor of the residence?

3 A Yes.

4 Q Where is that storage area located?

5 A You need to, I guess, have a picture of
6 this.

7 Q Do you think you could draw it out on a
8 piece of yellow pad?

9 A Yes.

10 MR. GIUFFRA: Mark this as Huber
11 Exhibit 1.

12 MR. SCHUELKE: Why don't I do it and see if
13 she will adopt it.

14 MR. GIUFFRA: That's fine.

15 Let's stay off the record.

16 (Discussion off the record.)

17 BY MR. GIUFFRA:

18 Q In any event, there is another closet which
19 is located close to the room with the desk that you
20 now store the personal financial records of the
21 Clintons?

22 A Yes.

1 Q Very briefly. In the late 1970s, you
2 worked as Mrs. Clinton's secretary?

3 A I have never been her secretary.

4 Q Did you work with her at the Rose Law Firm?

5 A Yes.

6 Q You were the firm administrator?

7 A I was from '81. Before that I was the
8 secretary to Mr. Bird and Mr. Rule when I first went
9 there.

10 Q '81 to '82 you were the firm administrator?

11 A To '93 when I left.

12 Q Were you not also the administrator of the
13 governor's mansion in Little Rock?

14 A Two years, '79 and '80.

15 Q What was your position prior to becoming
16 the administrator of the governor's mansion in Little
17 Rock?

18 A I went to the Rose Law Firm in April of
19 1976 and was there until December of 1978.

20 Q Did you work for Mrs. Clinton between 1976
21 and 1979 in any capacity?

22 A No, sir. I went to work at the governor's

1 mansion for her on January 10 of 1979.

2 Q What position did you hold at the Rose Law
3 Firm between '76 and '79?

4 A I was a secretary to Allen Bird and Herbert
5 Rule.

6 Q As firm administrator at the Rose Law Firm,
7 what were your responsibilities?

8 A I was in charge of hiring all the support
9 staff.

10 Q Did you have any other responsibilities as
11 firm administrator?

12 A I ran the day-to-day operation. I had to
13 keep the maintenance people -- the building clean,
14 order furniture.

15 Q Did you have any responsibility for the
16 firm accounting department?

17 A No. We had an accountant in charge of the
18 accounting department.

19 Q Did you have any responsibility for billing
20 of clients or maintaining client billing records?

21 A No.

22 Q Did you have any responsibility for

1 maintaining records generally of the law firm?

2 A I maintained insurance records.

3 Q Did you maintain any other records?

4 A Personnel files.

5 Q Any other records beyond those two types of

6 records?

7 A No.

8 Q Did you have any other responsibilities at

9 the firm that you can recall generally?

10 A No.

11 Q Now, when Mrs. Clinton became First Lady

12 and left the Rose Law Firm, do you know what happened

13 to her records at the law firm?

14 A No.

15 Q Do you know whether any records were moved

16 to Washington, D.C. that she had, personal files,

17 client files, any kind of files?

18 A You mean from the Rose Law Firm?

19 Q Uh-huh.

20 A No. I wasn't in charge of her files.

21 Q Who was in charge of her files?

22 A She had a secretary.

1 Q Who was the person in charge of

2 Mrs. Clinton's files?

3 A Mrs. Alston.

4 Q That's spelled --

5 A A-l-s-t-o-n.

6 Q Does she still work at the White House?

7 A Yes.

8 Q What is her position?

9 A She does personal correspondence for

10 Mrs. Clinton.

11 Q She works for you?

12 A She is under me. We are all under the Oval

13 operations.

14 Q Ms. Alston would have been the person

15 responsible for moving any records that Mrs. Clinton

16 maintained at the Rose Law Firm to Washington, D.C.?

17 A Yes.

18 Q Do you know whether Ms. Alston moved any

19 records from the Rose Law Firm to Washington, D.C.

20 when the Clintons moved to Washington?

21 MR. SCHUELKE: How about subsequent?

22 THE WITNESS: Subsequent, we had two boxes

1 shipped up to Milli.
2 BY MR. GIUFFRA:
3 Q To Milli?
4 A That's her first name.
5 Q When were these boxes shipped from the Rose
6 Law Firm to Washington?
7 A It was in '93.
8 Q In the middle of 1993?
9 A I think it was.
10 Q About the time Mr. Foster died or before?
11 A No, I don't remember.
12 MR. SCHUELKE: Let's go off the record a
13 second.
14 (Discussion off the record.)
15 BY MR. GIUFFRA:
16 Q Your counsel just indicated he believed it
17 was in February. Does that sound correct?
18 A Yes.
19 Q Early in the administration?
20 A Yes, because -- that's right.
21 Q Do you know why you think it was in
22 February now?

1 A I am trying to remember back, the sequence
2 of it. Milli and I both came to work here February
3 1st.
4 Q The two boxes came shortly after you
5 arrived?
6 A Yes.
7 Q Were they sent by Federal Express?
8 A Yes.
9 Q Do you know what was contained in those
10 boxes?
11 A No.
12 Q But they were sent from the Rose Law Firm
13 to the White House?
14 A Yes.
15 Q Do you know what happened to the contents
16 of those boxes?
17 A We still have them in the boxes.
18 Q Do you maintain those boxes in your office?
19 A Yes.
20 Q In the east wing?
21 A Yes.
22 Q Where does Mrs. Clinton maintain, if you

- 1 know, her business records from Arkansas?
2 A What kind of business records?
3 Q For example, any files she might have
4 created when she was a lawyer at the Rose Law Firm.
5 A I don't know.
6 MR. SCHUELKE: Meaning client files?
7 BY MR. GIUFFRA:
8 Q Client files.
9 A I don't know.
10 Q Do you know where she keeps her diary?
11 A No.
12 Q Where she might have kept her calendars?
13 A No.
14 Q Did Mrs. Clinton maintain a calendar when
15 she was a lawyer at the Rose Law Firm?
16 A I would not know.
17 Q Now, I believe you testified at your last
18 deposition that there were some files related to
19 Whitewater Development Corporation that you
20 maintained in the closet on the third floor of the
21 residence.
22 A Yes, some canceled checks.
-

- 1 Q Were there any other files?
2 A No.
3 Q Do you know how the boxes that were in the
4 third floor of the White House in the closet, how
5 they got to Washington?
6 A I put them on the truck, the moving van.
7 Q There was a moving van that left the
8 governor's mansion?
9 A Yes.
10 Q And came to the White House?
11 A Yes.
12 Q Did you put any other boxes on the moving
13 van that came from the governor's mansion to the
14 White House?
15 A I packed up their personal belongings.
16 Those all came out.
17 Q Were there any documents or boxes with
18 documents in them that were shipped from Arkansas to
19 Washington that you are aware of?
20 A I don't know.
21 MR. SCHUELKE: I'm sorry?
22 BY MR. GIUFFRA:

1 Q Were there any boxes containing documents
2 that were shipped from Arkansas to Washington by the
3 Clintons?

4 MR. SCHUELKE: Including what she has
5 already indicated she put on the van herself?

6 MR. GIUFFRA: Yes.

7 MR. BEN-VENISTE: Would you know?

8 THE WITNESS: No, I don't know anything
9 about any documents. I mean what kind of documents,
10 I don't know.

11 MR. SCHUELKE: What sort of things were
12 contained in the files you yourself put on the moving
13 van?

14 THE WITNESS: I put those five or six boxes
15 I had of their financial records.

16 MR. SCHUELKE: Which are documentary in
17 form, I assume.

18 THE WITNESS: Yes.

19 BY MR. GIUFFRA:

20 Q Where were the financial records maintained
21 in Arkansas?

22 A In the governor's mansion, in the residence

1 over there.

2 Q And who directed you to move those
3 financial records from Arkansas to the White House in
4 Washington?

5 A I was in charge of the move, and I had
6 always maintained them. So I just knew to put them
7 on the truck.

8 Q Do you know a man named David Kendall?

9 A Yes.

10 Q Have you met David Kendall?

11 A Yes.

12 Q When did you first meet David Kendall?

13 A 1994.

14 Q What were the circumstances under which you
15 met Mr. Kendall?

16 A I can't remember.

17 Q Did he come and ask you about whether you
18 knew the location of any documents that the First
19 Family had or financial records?

20 A Financial records, yes.

21 Q Is that the reason why Mr. Kendall came to
22 see you?

1 A Yes.

2 Q Do you recall approximately when
3 Mr. Kendall came to see you?

4 A No. It seemed like it was -- I can't.

5 Q Did Mr. Kendall indicate why he was coming
6 to see you about financial records of the First
7 Family?

8 A It was one of the investigations that they
9 were doing.

10 Q And Mr. Kendall indicated that he needed
11 your help in locating the documents?

12 A Yes, because I was the one that knew where
13 the documents were. I was the only one.

14 Q What do you recall about the meeting that
15 you had with Mr. Kendall? Did you take him to the
16 documents?

17 A I am not sure if I took him to the
18 documents or if he told me what he needed and I
19 pulled them out and copied them.

20 Q Did Mr. Kendall give you a list of
21 documents that he needed to obtain from the White
22 House or records?

1 A He didn't -- it wasn't in writing.

2 Q Did you take any notes of your conversation
3 with Mr. Kendall?

4 A No.

5 Q Your best recollection would be that you
6 pulled the records or that he went and pulled the
7 records?

8 A No, that I did. He would not know.

9 Q What did you do in order to pull the
10 records that Mr. Kendall requested?

11 A I would give it to him or make a copy and
12 give it to him, what he needed.

13 Q Were the records that you looked through
14 the records on the third floor in the boxes in the
15 closet?

16 A Yes.

17 Q Did you look through any other records, any
18 other boxes or any other locations for records that
19 Mr. Kendall wanted?

20 A No, because what he wanted was in the
21 financial records.

22 Q All the financial records were in the

1 closet?

2 A That's right.

3 Q When you met with Mr. Kendall, was
4 Mrs. Clinton present?

5 A No.

6 Q Was anyone else present that you recall?

7 A No.

8 Q Did someone tell you that Mr. Kendall would
9 be coming to see you?

10 A I can't remember.

11 Q Did Mrs. Clinton tell you that Mr. Kendall
12 would be coming to see you about some records that
13 you had?

14 A I can't remember.

15 Q And you don't ever recall discussing
16 Mr. Kendall's request that you look for financial
17 records with Mrs. Clinton?

18 A No.

19 Q And were the financial records that
20 Mr. Kendall was looking for related to Whitewater
21 Development Corporation?

22 A There were some records that we were

1 looking at trying to find some payments, checks.

2 Q Did you take Mr. Kendall up to the third
3 floor of the residence at the White House, or did he
4 meet you in your office in the east wing?

5 A He met me in the east wing, because I would
6 give it to him there, the copies.

7 Q You went through the boxes, looked for the
8 documents that Mr. Kendall requested or the records
9 that Mr. Kendall requested, you made copies of them
10 and then you brought them to your office in the east
11 wing?

12 A Yes.

13 Q Did Mr. Kendall wait in the office of the
14 east wing or did he come back a second time?

15 A He didn't wait. I would send them over.

16 Q This also might have included the First
17 Family's tax returns?

18 A The tax returns are in those files. I
19 can't remember if he needed tax returns.

20 Q Do you recall how many times Mr. Kendall
21 came to visit you to ask about records of the First
22 Family?

- 1 A No.
- 2 Q Did he come on more than one occasion?
- 3 A I would say maybe two or three times.
- 4 Q Do you recall specifically the types of
- 5 records Mr. Kendall asked you to look for?
- 6 A It was usually just about payments.
- 7 Q So canceled checks?
- 8 A Yes.
- 9 Q And in looking for the records, did you
- 10 only look in the boxes that were maintained in the
- 11 closet on the third floor of the residence?
- 12 A Yes, because that is where they are.
- 13 Q Did Mr. Kendall ever ask you to look for
- 14 records of the Rose Law Firm?
- 15 A No.
- 16 Q And you don't recall ever discussing
- 17 looking for these records -- strike that.
- 18 You don't recall ever looking for the
- 19 records that Mr. Kendall was interested in with
- 20 Mrs. Clinton?
- 21 A No.
- 22 Q Do you recall discussing your process for

- 1 looking for these records with anyone other than
- 2 Mr. Kendall?
- 3 A No.
- 4 Q So he was the only one you spoke to about
- 5 your search for these records?
- 6 A Yes.
- 7 Q Do you know a woman named Jane Sherburne?
- 8 A I have met her. She is at the White House,
- 9 but I don't talk to her.
- 10 Q Do you know a woman by the name of Marian
- 11 Nimitz?
- 12 A I have just talked to her -- I don't know
- 13 whether I have talked to her or not. I know her
- 14 name.
- 15 Q Has anyone at the White House ever asked
- 16 you to look for any records, either in your office --
- 17 we will start with that. In your office?
- 18 A No.
- 19 Q Has anyone at the White House ever asked
- 20 you to look for any records that you maintained of
- 21 the First Family up in their residence?
- 22 A I don't know what the investigation was.

1 I'm not privy to any of this stuff. I am the peon, I
2 think. But they were chasing down some case. I
3 don't know if it was Whitewater or what. I'm sure it
4 was. That they did not pay enough income taxes? Do
5 you remember the case?

6 Q Just tell us what you recall.

7 A So, Mr. Podesta -- they would need some
8 income tax records, and I went up and copied income
9 tax records, their returns, and took them to
10 Mr. Podesta's office.

11 Q Did Mr. Podesta contact you directly?

12 A Yes.

13 Q And did Mrs. Clinton have any role in terms
14 of you looking for these records?

15 A She was out of town. They just called to
16 ask me to look at them.

17 Q Do you recall any other occasions where
18 someone from the White House asked you to look for
19 any other records?

20 A No.

21 Q Do you recall any other occasions when
22 someone from either Mr. Kendall or someone from his

30

1 office asked you to look for any records?

2 A No.

3 MR. SCHUELKE: Indulge me for a moment.
4 (Pause.)

5 BY MR. GIUFFRA:

6 Q Do you have something else you would like
7 to tell us?

8 A Yes. There were two people from Williams &
9 Connolly that came over and looked through those
10 boxes.

11 Q Do you recall when that was?

12 A That was in the summer of '94.

13 Q By "those boxes," you mean --

14 A My five boxes.

15 Q The boxes that were upstairs in the
16 residence of the White House?

17 A Yes.

18 Q Those boxes are banker-sized boxes?

19 A About like that, yes.

20 Q About say 2-1/2 feet long and maybe 18, 19
21 inches high?

22 A Yes. They came over to look through the

1 records.

2 Q Did they look through the records in the
3 room on the third floor of the residence?

4 A Yes.

5 Q Was anyone present with them when they
6 looked through the records?

7 A It was Nicole and Sylvia. I was there
8 part-time.

9 Q Do you remember anyone else being there?

10 A No, no one else.

11 Q They contacted you directly and said they
12 wanted to look at the records?

13 A Yes.

14 Q Did you ever contact Mrs. Clinton about the
15 fact that they wanted to look at these records?

16 A No. Then there was another occasion when I
17 was looking for another file drawer that I did find
18 another Whitewater file that I turned over to David.

19 Q Where was that file found?

20 A In that room. There were some wooden
21 filing cabinets in there. It was in one of the
22 bottom drawers in there.

1 Q Were the wooden filing cabinets in the desk
2 or separate filing cabinets?

3 A Separate filing cabinets.

4 Q What types of documents are stored in those
5 filing cabinets?

6 A It is like their personal, real personal
7 stuff like their wills, their marriage license,
8 Chelsea's medical records, that type thing. It is
9 just personal records.

10 Q Do those filing cabinets have a lock on
11 them?

12 A They may. But they are not locked.

13 Q They are not locked?

14 A No.

15 Q Do you recall approximately how big the
16 file was?

17 A It was a Redwell file. It wasn't tied up,
18 though.

19 Q Approximately how large was the file?

20 A It didn't have --

21 Q A foot thick?

22 A Was it legal size? I think it was letter

1 size.

2 Q About how deep was it?

3 A It was just about like that (indicating).

4 Q Maybe an inch worth of documents?

5 A Yes.

6 Q Did you look to see what types of documents
7 were in the file?

8 A I can't remember what was in there. It was
9 very insignificant.

10 Q You don't recall what it was?

11 A No.

12 Q When you found this particular file, did
13 you contact anyone?

14 A I gave it to -- I called David up.

15 Q Do you recall when it was that you found
16 this document?

17 A It was in '94.

18 Q In the middle of 1994?

19 A Just a minute. Do you remember the date?

20 I don't remember the date. It was sometime

21 approximately around that time, in the middle of

22 1994.

1 Q Do you know whether anyone from Williams &
2 Connolly has looked through the wooden filing
3 cabinets in that room on the third floor of the
4 residence?

5 A No.

6 Q Have you ever looked through the
7 cabinets -- strike that.

8 Have you ever looked through the wooden
9 filing cabinets on the third floor of the White House
10 for documents that Mr. Kendall was looking for?

11 A No. I didn't have any in there.

12 Q Do you know whether Mrs. Clinton has ever
13 looked for documents that Mr. Kendall was looking for
14 in connection with the investigations that are going
15 on?

16 A No.

17 Q You don't think she has ever looked?

18 A Oh, I don't know.

19 Q You don't know of any --

20 A I don't know. I am not over there with
21 her, so I wouldn't know.

22 Q Are there any other locations where the

1 Clintons maintain personal records?

2 A Not personal. Are you talking about what I
3 talked about, the --

4 Q Either financial records --

5 A No. I keep all those.

6 Q Where are all sorts of records stored that
7 you know about?

8 A I don't know. She has an office in the
9 west wing. I don't know what is in that office.

10 Q Does she also have an office in the east
11 wing, Mrs. Clinton?

12 A No.

13 Q Where are the files containing the
14 President and Mrs. Clinton's personal correspondence
15 maintained?

16 A They have --

17 MR. SCHUELKE: You mean the personal
18 correspondence which is managed by Ms. Huber's shop?

19 MR. GIUFFRA: Yes.

20 THE WITNESS: They have a place where that
21 goes.

22 MR. SCHUELKE: Who has a place?

1 THE WITNESS: It is a big staff of people.

2 They keep it. We don't get to keep copies of it.

3 But Milli maintains Mrs. Clinton's personal files.

4 But the President's are maintained in this general
5 area.

6 BY MR. GIUFFRA:

7 Q Where is the President's personal
8 correspondence maintained?

9 A It is Mr. -- there are two men. They are
10 career people. It is Mr. Johnson and -- I don't know
11 the name of it. It is a records area where they keep
12 his.

13 Q Is that in the west wing of the White
14 House?

15 A Yes. Staff secretary.

16 Q The staff secretary's office?

17 A Yes.

18 Q Now, Mrs. Clinton's personal correspondence
19 are maintained in your office?

20 A Milli does part of it. Her other
21 secretary, Pam Cichetti, I'm sure has some.

22 Q Does Milli maintain certain files in your

- 1 area?
- 2 A In her area.
- 3 Q Which is part of your office suite?
- 4 A Yes.
- 5 Q There are a number of file cabinets there?
- 6 A Yes.
- 7 Q Do you know approximately how many file
- 8 cabinets might be in your office suite where Milli
- 9 maintains this correspondence?
- 10 A I think she has about four files.
- 11 Q Cabinets?
- 12 A Yes.
- 13 Q Four drawers in each cabinet?
- 14 A Most of them.
- 15 Q Has Mr. Kendall or anyone from his office
- 16 ever looked through, as far as you know, those file
- 17 cabinets for documents?
- 18 A I have never seen him in there.
- 19 Q Do you think you would know if he came to
- 20 look for documents there?
- 21 A I'm sure, yes.
- 22 Q Do you know whether anyone from the White

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- 1 House has looked for documents in those file cabinets
- 2 that might be needed in these investigations that are
- 3 going on?
- 4 A You would have to ask someone, but not to
- 5 my knowledge.
- 6 Q Either Milli or yourself would be the
- 7 person who would have --
- 8 A They would have to ask Milli or me.
- 9 Q You think you would probably know about it
- 10 if it happened?
- 11 A Yes. Milli would have told me.
- 12 Q What types of documents are maintained in
- 13 those cabinets?
- 14 A Just letters.
- 15 Q From friends?
- 16 A Friends.
- 17 Q Are these letters that are dated after the
- 18 Clintons came to Washington or are there also records
- 19 and letters that came since they have been to
- 20 Washington?
- 21 A Since we have been to Washington.
- 22 Q Do you know where personal letters that

1 were sent to Mrs. Clinton before she came to
2 Washington would be kept?

3 A I have some of them in my office in boxes
4 packed away.

5 Q In your office in the east wing?

6 A Yes. But they are only personal letters
7 from friends, handwritten letters from friends.

8 Q Any typed letters?

9 A No, I don't have them.

10 Q Has anyone ever looked through those boxes
11 for documents in connection with these
12 investigations?

13 A No.

14 Q Have you ever received any notices from
15 anyone at the White House asking you to look for
16 documents that you might have that might be called
17 for by the Whitewater investigation?

18 A We get memos from Ms. Sherburne.

19 Q Ms. Sherburne has never called you to look
20 for documents?

21 A No. We just get these memos.

22 Q Have you ever looked for documents in

40

1 response to Ms. Sherburne's memos?

2 A Yes. We look for them when we get the
3 memo.

4 Q Do you recall any occasions on which you
5 have looked for documents that Ms. Sherburne has
6 asked you to look for?

7 A What did you say?

8 Q Can you recall any instances when you got a
9 memo from Ms. Sherburne and you went out and looked
10 for documents that were discussed in the memo?

11 A I would look around my office to see if I
12 had anything.

13 Q Do you recall doing that?

14 A Yes.

15 Q Do you recall ever finding anything that
16 was called for by the memos?

17 A No.

18 Q And the other people who worked for you
19 have done the same thing?

20 A Yes. We very diligently try to find
21 stuff.

22 Q You haven't looked through these boxes that

1 you have of Mrs. Clinton's personal correspondence
2 from Arkansas?

3 A We have a list of them, of those files that
4 are in those boxes, Milli does.

5 Q Have you ever looked through that list to
6 see whether there are any documents?

7 A She does, because Milli gets the same memos
8 that I get.

9 Q You think that Milli has looked through the
10 index?

11 A Yes.

12 Q Do you know whether Milli has ever found
13 any documents that Ms. Sherburne wanted when she
14 looked through the indexes?

15 A Not that I know of.

16 MR. SCHUELKE: What was the question?

17 MR. GIUFFRA: Read it back.

18 (The reporter read the record as requested.)

19 MR. SCHUELKE: Do you know one way or the
20 other?

21 THE WITNESS: No.

22 BY MR. GIUFFRA:

1 Q The main reason you are here, Ms. Huber,
2 are these billing records. This is a copy that we
3 received from Mr. Kendall on January 5th. If you
4 could just in your own words describe how you found
5 these billing records.

6 A Okay. I went up on the third floor. This
7 is called the book room, which is right around the
8 corner from where the office, what we call the office
9 is.

10 Q What is in the book room?

11 A We have bookshelves all around with
12 personal books of the Clintons up on the shelves. We
13 have a huge table over in the middle and a closet
14 this way, a couple file cabinets over here. In the
15 middle we have a big table where we keep knickknacks
16 on, books and knickknacks piled up.

17 Q Who uses the book room?

18 A Nobody uses it. It is just a storage
19 area. Everything is piled up in there.

20 Q Who goes into the book room?

21 A I go in there occasionally when I need to
22 get in my file cabinet.

1 Q Do you know of anybody else who goes into
2 the book room?

3 A Ms. Marshall goes in there.

4 Q Who is Ms. Marshall?

5 A She works for Mrs. Clinton.

6 Q What is her first name?

7 A Capricia.

8 Q Does Ms. Marshall work in the west wing or
9 east wing?

10 A She has an office down the hall from me in
11 the east wing.

12 Q What is her position?

13 A She is a personal assistant.

14 Q What type of work does Ms. Marshall do for
15 Mrs. Clinton?

16 A She gets the hairdressers and getting
17 clothes. She just does everything. She is just --

18 Q Is there anything else that Ms. Marshall
19 does for Mrs. Clinton?

20 A She does all sorts, goes around when she is
21 having meetings to help her get through the crowds
22 when they have meetings in the White House.

1 Q And Ms. Marshall reports directly to
2 Mrs. Clinton?

3 A Yes.

4 Q Does she report also to Ms. Williams at
5 all?

6 A I'm not sure.

7 Q She definitely works directly for
8 Mrs. Clinton?

9 A Yes.

10 Q Can you think of anyone else who sometimes
11 goes into the book room?

12 A No, other than the maids and the butlers
13 and the people that work on that floor. The people
14 that take care of the flowers, the National Park
15 Service, they go through there.

16 Q As far as you know, does President Clinton
17 ever go through the book room?

18 A I'm sure he goes through there because the
19 exercise room is right by it.

20 Q Is the exercise room connected to the book
21 room?

22 A You go in the book room and there is a door

1 and the exercise room is in there.

2 Q In order to go to the exercise room, you
3 have to go through the book room?

4 A Go through the book room.

5 Q There is a little gym in the exercise room?

6 A Yes.

7 Q Does he use that gym?

8 A Sometimes.

9 Q Does Mrs. Clinton use that gym?

10 A I think she uses it sometimes. And also
11 house guests use it sometimes.

12 Q Mrs. Clinton goes into the book room on
13 occasion?

14 A I'm sure they go in there to get their
15 books. They have a lot of books in there. They go
16 to get a book out to read it. I'm sure the President
17 does too.

18 Q Can you think of anyone else who goes into
19 the book room?

20 A No.

21 Q Does Ms. Maggie Williams go into the book
22 room?

1 A I don't know.

2 Q Now, the President and Mrs. Clinton's
3 personal quarters, are they on the second floor of
4 the White House?

5 A Yes. Third floor is also their quarters.

6 Q But their primary quarters --

7 A Are on the second floor.

8 Q Are there any other rooms that are
9 connected to the book room?

10 A Well, you go out the hall and down that way
11 and then there is the valets. That is where they do
12 their work.

13 Q Does Mrs. Clinton sometimes work in the
14 book room?

15 A No. She worked occasionally --
16 occasionally I would see her in the office on the
17 third floor, but very rarely.

18 Q That would be her office that had the
19 closet that you put the boxes in?

20 A Yes, sir.

21 Q You would describe that as Mrs. Clinton's
22 office?

- 1 A Yes.
- 2 Q And that office is right near the book
- 3 room?
- 4 A Yes. You come around here and it is right
- 5 here.
- 6 Q Right around the corner.
- 7 A Uh-huh.
- 8 Q You mentioned that there were some cabinets
- 9 in the book room --
- 10 A I have a file cabinet in there.
- 11 Q One file cabinet?
- 12 A Two file cabinets.
- 13 Q Are they metal?
- 14 A Yes. One is one we brought from Arkansas.
- 15 Q What sort of documents are in that?
- 16 A Maps and magazines and newspaper articles.
- 17 MR. KRAVITZ: Can I ask one question?
- 18 MR. GIUFFRA: Sure.
- 19 MR. KRAVITZ: The office you have described
- 20 as Mrs. Clinton's office on the third floor, is that
- 21 the office where the six boxes used to be or where
- 22 they are now?

- 1 THE WITNESS: Yes, used to be. They sealed
- 2 up the closet last summer.
- 3 MR. SCHUELKE: Same space you have also
- 4 described today as where Chelsea does her homework
- 5 and where there is a computer in there?
- 6 THE WITNESS: Yes. It has been in there a
- 7 year now. They got the computer in '94 for
- 8 Christmas, and it has been there a year.
- 9 BY MR. GIUFFRA:
- 10 Q The file cabinets that would be in the book
- 11 room, they have maybe old newspaper clippings about
- 12 the President?
- 13 A Yes, and the First Lady. They are very
- 14 old. We brought lots of them from Arkansas.
- 15 Q Are there any records or any documents in
- 16 there?
- 17 A I have another cabinet in there where I
- 18 have all their personal stuff, like their marriage
- 19 license, their visas and that type thing.
- 20 Q Visa bills?
- 21 A No.
- 22 Q You mean visas to leave the country?

1 A Yes, passports.

2 Q I thought the marriage license was in the
3 other file cabinet.

4 A I don't have that anymore. I had to move
5 it out and --

6 MS. FISHER: This is the wooden file
7 cabinet?

8 THE WITNESS: Yes. It is gone now. They
9 needed the space for the computer.

10 BY MR. GIUFFRA:

11 Q Have you ever seen Ms. Williams in the book
12 room?

13 A Yes. Sometime, it seemed like it was in
14 late August, when she was helping on the book.

15 Q August of 1995?

16 A Yes, because they put -- in that room they
17 put computers in there and there were a lot of people
18 in there working.

19 MR. SCHUELKE: Working on?

20 THE WITNESS: Working on the book.

21 BY MR. GIUFFRA:

22 Q Mrs. Clinton's book that just came out?

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1 A Yes.

2 Q Just so the record is clear, the personal
3 financial records of the Clintons, where are they
4 maintained today? In a closet in the hallway?

5 A You mean the ones that are real current
6 right now?

7 Q No. The boxes that you had that used to be
8 in --

9 A Those are still in that back closet that I
10 told you about, through the maids' quarters. It is
11 in the back, where Hank and I can't draw you the
12 picture.

13 Q They are moved from the closet in her
14 office to another closet located near the book room?

15 A No. This is back where the maids are. It
16 is a different area. There are a lot of different
17 areas. That's why it is so hard to describe it.

18 Q I haven't been up there yet.

19 MR. SCHUELKE: Isn't it true you have to go
20 through the book room to get to that area?

21 THE WITNESS: No. There are two big doors
22 there where the solarium is and it is clear to the

1 back. It is in the back. They call it "over the
2 portico" is what they call it. That area is over the
3 portico. That's why I said it was on the
4 Pennsylvania side. That's what the ushers call it.

5 BY MR. GIUFFRA:

6 Q Ms. Huber, why don't we now go back to
7 telling us how you found these.

8 A Back in the summer, early August, I went up
9 to get these magazine articles out, newspaper
10 articles, packed them all up in boxes to take to my
11 office to catalogue them.

12 Q This would be early --

13 A August.

14 Q This would be August of 1995?

15 A Yes, sir.

16 Q So, sometime in the first week or two of
17 August?

18 A Yes. I don't remember the date.

19 MR. BEN-VENISTE: Off the record.

20 (Discussion off the record.)

21 THE WITNESS: I went up to get these
22 magazines and newspaper articles because I have a

1 volunteer that catalogues them. She puts them all in
2 boxes and makes labels for them. While I was up
3 there --

4 BY MR. GIUFFRA:

5 Q Okay. Go ahead, keep going.

6 A While I was up there, I was picking this
7 stuff up and putting it in the boxes. There was
8 another box on the table. It had some pictures that
9 I don't know who they are, because we get tons of
10 gifts of pictures, knickknacks. They were in this
11 box. I knew I needed to take those to my office so I
12 could catalogue those to send them to archives or
13 wherever they needed to go to. There were lots of
14 books on this table. It was piled with books and
15 knickknacks lying right there on the corner when I
16 started to go to get everything to go, and I looked
17 and these documents were -- can I fix them for you?

18 Q Yes.

19 A They were like this sitting right up like
20 that (indicating). So I picked them up, threw them
21 down in the box and called the ushers to come help me
22 carry these boxes to my office.

1 Q The documents that we are talking about
2 bears Bates number DKSX 28928 through DKSX 029043.

3 MR. BEN-VENISTE: I presume you are showing
4 the witness a copy of the documents.

5 BY MR. GIUFFRA:

6 Q These are the documents we received from
7 Mr. Kendall. This is a copy of the documents you
8 found?

9 A Found?

10 MR. SCHUELKE: Look through them.

11 THE WITNESS: I don't know anything about
12 the Bates stamp. That must be David's. That was not
13 on there when I saw them.

14 (Witness examined the document.)

15 This looks like a copy of what I had.

16 BY MR. GIUFFRA:

17 Q The documents that you found were different
18 than these?

19 A They were Xeroxed but a little bit
20 different Xerox looking. They were the same. They
21 are the same document, but the Xerox is a different
22 color.

1 MR. SCHUELKE: What was different about
2 it?

3 THE WITNESS: The Xerox was better than
4 that.

5 BY MR. GIUFFRA:

6 Q It was a little darker?

7 A That's it.

8 MR. SCHUELKE: Any other different color?

9 THE WITNESS: No.

10 BY MR. GIUFFRA:

11 Q You didn't have the actual computer pages?

12 A No. I just had a copy.

13 Q They were white pages with this copied on
14 top of them, but the copy was better?

15 A Uh-huh.

16 Q Now, I want to go back through the whole
17 thing. Do you recall whether -- for example, on this
18 page DKSX 028933, there is some handwriting in red.

19 A Yes.

20 Q Did you ever look through these documents
21 and see whether there was handwriting in red?

22 A When I was copying them.

1 Q When you first found the documents?

2 A When I first found the documents, I didn't
3 look through this. When I opened it up and saw it,
4 that's all I did. When I saw "Madison Guaranty," I
5 had a sinking feeling.

6 MR. SCHUELKE: When?

7 THE WITNESS: In my office on January 4th.

8 MR. SCHUELKE: I think the questions now
9 relate to the time in early August.

10 THE WITNESS: Is that what you are talking
11 about?

12 BY MR. GIUFFRA:

13 Q When you first saw the documents, they were
14 folded up.

15 A Like this.

16 Q They were folded in half and you couldn't
17 see what they were. Did you do anything with the
18 documents?

19 A No. I just picked it up like this, threw
20 it down in that box. I didn't open it.

21 Q And then you had the boxes taken --

22 A To my office in the east wing.

1 Q Who took the boxes to your office?

2 A The ushers have these maintenance people
3 and they send them up with their carts and they
4 hauled them over there for me and put them on the
5 floor.

6 Q In your office?

7 A Yes.

8 Q That was the floor under your desk?

9 A It was at the side of my desk. I moved in
10 a table later on over the top of them. They were
11 under this table.

12 Q About how many boxes did you move to your
13 office?

14 A I'm sure I had about five or six at that
15 time.

16 Q Were these boxes like the boxes that were
17 in the closet?

18 A Some of them were just boxes like you would
19 get stuff in. They were like storage boxes like you
20 get canned goods in or something. They were all just
21 boxes like that. They were not bankers boxes. I
22 don't use my bankers boxes for carrying stuff.

1 MR. SCHUELKE: Off the record.

2 (Discussion off the record.)

3 BY MR. GIUFFRA:

4 Q Let's go back to early August 1995. Now,
5 on the day when you went to the book room, did
6 someone tell you to go there and clean up the room?

7 A No. I just do that periodically, go up.

8 But that day I was going to get these magazine
9 articles because I have a volunteer that takes care
10 of them. She needed some work. So, I went up to get
11 them to bring down for her to work.

12 Q These were magazine articles from Arkansas?

13 A They are some we have gotten since we have
14 been at the White House. It is magazine articles and
15 papers, articles about the Clintons. They keep their
16 magazines.

17 Q They keep --

18 A If you were featured in an article, you
19 know.

20 MR. KRAVITZ: Bob doesn't have any interest
21 in that stuff.

22 THE WITNESS: That's what I'm talking

1 about. I have a volunteer that makes labels,
2 catalogues them, puts them in boxes so we can keep
3 them.

4 BY MR. GIUFFRA:

5 Q Keep them for the presidential library?

6 A That's right.

7 Q Do the President and Mrs. Clinton sometimes
8 put these articles in the file cabinets?

9 A No, they don't. But they will be sent up
10 to that table and I will pick them up and put them in
11 there.

12 Q Is there like an in-box where these things
13 are kept?

14 A No. They just end up up there.

15 Q On the big table?

16 A Yes.

17 Q How big is the table in this book room?

18 A It is about an 8 by --

19 MR. SCHUELKE: The question is how big was
20 the table in the book room.

21 BY MR. GIUFFRA:

22 Q How big was the table in the book room in

1 August of 1995?

2 A It was about 8 feet long.

3 Q About how wide?

4 A About 5 feet.

5 Q Normally were there things on top of the
6 table?

7 A Yes. Books. They get lots of books. So,
8 we had books on it all the time, lots of books.
9 Trying to catalogue them, to see -- a lot of them we
10 store. Some we give away. Some we try to put up on
11 the shelf. There are numerous knickknacks they get
12 when they go on travel trips or just all the time
13 people are sending them stuff. It ends up up there.
14 Then we have a closet that we will sort out the gifts
15 and put them up in the closet.

16 Q So, it is a regular process for you --

17 A Yes, of moving in and out stuff.

18 Q It is a regular process to take the
19 magazines and have your volunteers take those and the
20 gifts and sort those too?

21 A Yes.

22 Q This is sort of a weigh station?

60

1 A Yes, it is. It is just a catch-all.

2 Q In early August 1995 when you went to the
3 book room, the day you found these records, were you
4 by yourself?

5 A Yes.

6 Q Do you recall if it was early in the day or
7 late in the day?

8 A It was probably in the morning, because I
9 usually go over in the morning and try to get it,
10 because my volunteer was there that day.

11 Q About how often would you go to the book
12 room and remove things and bring them down to your
13 office?

14 A It would depend on how much stuff had piled
15 up.

16 Q Is this something you do on a weekly basis?

17 A No, not on a weekly basis. Maybe every two
18 months or monthly.

19 Q Every month or two months?

20 A Yes. It is not -- there is no set time to
21 do it.

22 Q Had you been -- you found these documents,

1 this document, sometime in early August. Had you
2 been in the book room the day before or the day
3 before that? Do you recall the last time you were in
4 the book room?

5 A I can't remember how long before that I had
6 been in there.

7 Q Within a week maybe?

8 A Probably.

9 Q How often do you think you normally go into
10 the book room?

11 A Maybe if we just phrase it like this, in
12 the last two or three months I haven't even been in
13 there over two or three times.

14 Q Say in the period July-August 1995.

15 A I probably wasn't in there more than two or
16 three times during that time of the year.

17 MR. SCHUELKE: Two or three times?

18 THE WITNESS: In that two-month period,
19 July and August.

20 BY MR. GIUFFRA:

21 Q Now, just to go through the story once
22 again so we are all clear about it, you went into the

1 book room. Did you have some boxes with you?

2 A Yes. I got those boxes from my office and
3 brought them with me.

4 Q Did you carry the boxes up there yourself?

5 A Yes.

6 Q You brought the boxes up there and you
7 started taking newspaper articles and things out of
8 the file cabinets?

9 A Yes.

10 Q And then did you take the box and put it on
11 top of the table?

12 A No. There was one up there on top of the
13 table that had --

14 Q Did you put the box up there?

15 A I didn't put it there that day. I can't
16 remember if I had it earlier or if it was just there
17 and people had piled stuff in it.

18 Q Do you recall how long the box was there?

19 A No.

20 Q A month, two months?

21 A I don't remember.

22 Q It had not been there for six months?

- 1 A No, I'm sure it was not.
2 Q There was a box on top of the table?
3 A Yes.
4 Q Do you recall what was in the box?
5 A It had a picture about like that
6 (indicating.)
7 Q A picture of what?
8 A I don't know who they were.
9 Q But of people?
10 A Uh-huh.
11 Q Was it in a frame?
12 A Uh-huh.
13 Q It was a picture in a frame in a box?
14 A Yes.
15 Q Was there anything else in the box?
16 A There were some other little old knickknack
17 things.
18 Q Like gifts maybe?
19 A Yes, gifts but I can't recall what they
20 were.
21 Q Was there anything else in the box?
22 A I can't remember if there was anything else
-

- 1 or not.
2 Q And where were the records?
3 A They were just on top of the table, just
4 lying there.
5 Q Just lying on the table by themselves?
6 A Just on top of the stuff that was in
7 there.
8 Q You mean they were on top of the box, in
9 the box?
10 A No, they weren't in the box. They were
11 just like on top of the knickknacks.
12 Q There were other knickknacks on the table
13 as well?
14 A Yes, and books.
15 Q So the table was fairly cluttered with
16 items?
17 A Yes.
18 Q The records were folded over in half?
19 A Just sitting there like that. They stayed
20 flatter than that. Yours don't stay very flat.
21 Q Were the records on top of some books or
22 were they directly on the table?

- 1 A It was on top of books, because there were
2 stacks of stuff up there. It was just laid up
3 there.
4 Q Do you recall, was it on a high stack or a
5 short stack of books?
6 A It was probably like that.
7 Q About a foot high stack?
8 A Yes.
9 Q Were there other books stacked around?
10 A There would be all over the table books and
11 knickknacks.
12 Q Were the records in the middle of the
13 table?
14 A No. They were kind of on the end.
15 Q On one of the ends of the table?
16 A Yes.
17 Q Were the records in a place where you could
18 see them when you approached the table or were they
19 sort of back?
20 A No. You could see when you walked in.
21 Q When you walked in the book room, the
22 records were there?
-

- 1 A You could see the paper.
2 Q If somebody walked into the book room, they
3 would have seen these records?
4 A Yes.
5 Q And you had never seen these records in the
6 book room before this day in early August 1995?
7 A Not to my knowledge.
8 Q After you discovered the records which were
9 folded up, you stuck them in the box?
10 A I stuck them down in the box.
11 Q You never opened them up?
12 A No. I thought it was something that would
13 need to be filed and I would get to it sometime.
14 None of that stuff is urgent that I pick up in that
15 room. It is not anything that needs to be done
16 today. It can be done like a year from now. I just
17 stuck them down in there.
18 Q The records that we received from
19 Mr. Kendall had a binder clip on them. Was there a
20 binder clip on these records?
21 A No.
22 Q Were they loose?

1 A The individual ones were stuck together.
2 Like the individual matters had lots of staples in
3 them. This would be stapled on top of this, like the
4 backup sheets if you had a bill behind it.

5 Q They weren't held together with any rubber
6 band or a clip?

7 A No.

8 MR. KRAVITZ: Are you asking her about
9 observations she made about these records when she
10 actually looked at them in January or observations in
11 early August 1995?

12 MR. GIUFFRA: We are focusing in early
13 August 1995.

14 MR. KRAVITZ: It may be she did not make
15 those observations at that time.

16 THE WITNESS: I picked them up like that.

17 BY MR. GIUFFRA:

18 Q You don't recall if there was a clip?

19 A I don't recall a clip being on there.

20 Q When you pulled them out of the box in
21 January, do you recall --

22 A There was not a clip on them.

1 Q Definitely not a clip.

2 A No.

3 Q You don't believe there was a clip?

4 A No.

5 Q Were the Clintons at the White House in
6 August 1995, do you recall?

7 A I don't recall. I don't recall their
8 schedule.

9 Q Didn't they go to -- I guess it was
10 Wyoming.

11 A They went on their vacation.

12 Q That was in late August?

13 A It seems like it was.

14 Q They hadn't started on their vacation?

15 A I'm not sure if they were traveling. They
16 travel and are in and out all the time. I don't see
17 them that often.

18 Q Just so we are clear, you saw the records
19 and they were sort of toward the end of the table?

20 A Yes, about like that (indicating).

21 Q These were on top of the book toward the
22 end of the table folded over like this?

- 1 A Yes.
2 Q Near a corner of the table?
3 A Yes.
4 Q Would it be toward the middle of the table?
5 A Right like this (indicating). About like
6 that.
7 Q Was it sort of toward the end of the table?
8 A Exactly where I am right now.
9 Q That is about a foot in from the corner of
10 the table.
11 A Yes.
12 Q Maybe not. 6 or 7 inches. Do you want to
13 say how far?
14 A I'm not good at figures.
15 MR. SCHUELKE: 6 to 8 inches looks like a
16 reasonable estimate to me.
17 BY MR. GIUFFRA:
18 Q And you folded them up and put them in
19 the --
20 A I didn't fold them up. They were folded.
21 Q You took them and stuck the records into
22 the box?
-

- 1 A Yes.
2 Q Was there a top on the box?
3 A No.
4 Q It was just an open box?
5 A Just an open box, yes.
6 Q You don't recall ever discussing with
7 Mrs. Clinton -- strike that.
8 Do you recall seeing Mrs. Clinton in early
9 August 1995 when you found these records?
10 A No. I didn't see her.
11 MR. KRAVITZ: What do you mean by "when she
12 found the records"?
13 MR. SCHUELKE: Was she there in the room?
14 Is that what you mean?
15 BY MR. GIUFFRA:
16 Q On the day when you first found the records
17 in early August 1995, do you recall seeing
18 Mrs. Clinton at any time that day?
19 A No.
20 MR. GIUFFRA: Do you want to take a break?
21 THE WITNESS: No.
22 MR. GIUFFRA: If at any time you want a

1 break, let us know.

2 BY MR. GIUFFRA:

3 Q Ms. Huber, you don't recall looking at
4 these records in early August 1995?

5 A No, I did not.

6 MR. BEN-VENISTE: That's what she testified
7 three or four times to.

8 THE WITNESS: I did not look at them.

9 BY MR. GIUFFRA:

10 Q Do you know why you didn't look at them?

11 A I didn't think it was anything to look at.
12 I just thought it was some old papers. I didn't even
13 know where they came from. I just thought that's
14 something I will need to file and put up, like I do
15 all the rest of the stuff we have here in this room.

16 Q You didn't think maybe you should look at
17 them before you put them in the box?

18 A No, no.

19 Q Was the copy paper the same quality as this
20 quality paper? Was it relatively new copy paper?

21 A Oh, I don't know. I don't have any idea.

22 Q Do you recall whether it had been

1 discolored at all?

2 A No. It was white.

3 Q Just plain white copy paper?

4 A Yes.

5 Q Were the records the same size as this that
6 we received from Mr. Kendall?

7 A Yes, 11 by 17.

8 Q How do you know it is 11 by 17?

9 A Because that's the size of paper that you
10 can print them on in a Xerox machine or computer
11 paper.

12 MR. KRAVITZ: You are talking to someone
13 who has worked in a law firm for a long time, Bob.

14 BY MR. GIUFFRA:

15 Q Is there a copy machine on the third floor
16 of the residence of the White House?

17 A No. We don't have a copy machine.

18 Q Is there a copy machine in the east wing
19 that does 11 by 17 copies?

20 A No, ours doesn't do that. The one we had
21 then did not. I don't know about the new one we got,
22 a new Canon. I don't know if it makes copies that

1 big or not.

2 MR. SCHUELKE: When did you get the new
3 one?

4 THE WITNESS: I can't remember when we got
5 it. We had a Xerox in there, a little one. We have
6 a small copier. If you need to make big copies, you
7 need to go to another place. We can make letter size
8 copies.

9 BY MR. GIUFFRA:

10 Q Ms. Huber, again, I don't want to get into
11 the diagram business again. The table was located in
12 the middle of the room?

13 A Yes.

14 MR. SCHUELKE: Was.

15 BY MR. GIUFFRA:

16 Q This is in August of '95?

17 A Yes.

18 Q Sort of centered in the middle of the room?

19 A Yes.

20 Q How big is the book room?

21 THE WITNESS: Do you know, Hank, how big
22 that is?

1 MR. SCHUELKE: Off the record.

2 (Discussion off the record.)

3 BY MR. GIUFFRA:

4 Q Does that sound right?

5 A It is about 12 by 25.

6 Q And other than the bookcases -- are they
7 all the way around the room?

8 A Yes.

9 Q Then this table is in the middle of the
10 room?

11 A Yes.

12 MR. GIUFFRA: Off the record.

13 (Discussion off the record.)

14 (Huber Exhibit 1 identified.)

15 BY MR. GIUFFRA:

16 Q I have attempted to draw a rectangle 12 by
17 25 and then I have put a table in the middle and the
18 bookcases around the room. If you could just draw
19 the entrances to the room. Put a little line where
20 the entrances would be.

21 A (Witness complied.)

22 Q Where would another one be?

- 1 A There is a door here, but it is not
2 operable.
- 3 Q Just the doors that are operable.
- 4 A There is a hallway that goes right down
5 this way and there is a door that comes in here, and
6 the elevator is back there, and there are valet rooms
7 here.
- 8 Q There is another door here?
- 9 A Yes.
- 10 Q Mark that as a door.
- 11 A (Witness complied.) There is the maid's;
12 Anita the maid is in here. She irons tablecloths.
- 13 Q Where is the exercise room?
- 14 A It is here.
- 15 Q Where is the door to that?
- 16 A It is right here.
- 17 Q Why don't you put a door there.
- 18 A Yes. (Witness complied.)
- 19 Q Where were the records found on the table?
- 20 A About right here (indicating).
- 21 Q Where you made the X?
- 22 A Yes.
-

- 1 Q If the President wanted to use the exercise
2 room, which door would he normally go through?
- 3 A Right here.
- 4 Q Put an arrow leading down there.
- 5 A Okay. (Witness complied.)
- 6 Q The records were found on the corner of the
7 table closest to the door, the two doors which you
8 would use to go to the exercise room; is that right?
- 9 A This is where you enter from the hallway
10 and then you would go in there to go there.
- 11 Q Where were the file cabinets in the room?
- 12 A I have a file cabinet here.
- 13 Q Put down right on the thing "file."
- 14 A There are bookcases here.
- 15 Q Why don't you mark the bookcases as well.
16 They go all the way around the room?
- 17 A This is a closet right here. It is where
18 we put -- store the knickknacks when we get around to
19 sorting them out, some of them. Then there is a
20 bookcase here, a bookcase here, a bookcase here
21 (indicating).
- 22 Q These are all built-in bookcases?

1 A Yes, we had them built in since we have
2 been there.
3 Q Do you have any idea as to how frequently
4 Mrs. Clinton would be in the book room during the
5 period, say, August 1995, July-August 1995?
6 A I have no idea.
7 Q Have you ever seen her in the book room?
8 MR. KRAVITZ: In that time period?
9 BY MR. GIUFFRA:
10 Q During that time period.
11 A I cannot remember seeing her there during
12 that time frame.
13 Q If she wanted to use the exercise room, she
14 would go through the book room?
15 A Yes.
16 Q Do you know how often she works out in the
17 exercise room?
18 A No.
19 MR. BEN-VENISTE: You mean in August of
20 1995?
21 MR. GIUFFRA: Yes.
22 THE WITNESS: I do not.

1 BY MR. GIUFFRA:
2 Q Is she someone who works out on a regular
3 basis?
4 A I don't know.
5 Q Now, taking us back to August of 1995, you
6 don't believe that these records were on the corner
7 of the table in the book room the last time you were
8 in the book room other than before you came and saw
9 them?
10 MR. SCHUELKE: The last time prior to this
11 occasion she described in August of '95?
12 MR. GIUFFRA: I will rephrase the
13 question.
14 BY MR. GIUFFRA:
15 Q Prior to this occasion in early August 1995
16 when you put the records into the box, you don't
17 recall ever seeing these records in the book room?
18 A No, I do not.
19 Q What would be your best estimate as to the
20 time previous to August, early August 1995 when you
21 were last in the book room? A week, two weeks, a
22 month before?

1 A It might have been a week. I can't
2 remember if I was in there a week or 10 days or
3 what.

4 Q About a week or 10 days before?

5 A Probably.

6 Q You are fairly sure the records were not on
7 the corner of the desk?

8 A I did not see them.

9 Q Do you think you would have seen the
10 records?

11 A Yes, I would have.

12 Q Why do you think you would have seen the
13 records?

14 A Because I probably would have been in there
15 to have picked up something.

16 Q Are there any records maintained by the
17 White House of how often you go to the third floor of
18 the residence?

19 A I don't know whether they keep a record of
20 it or not.

21 Q You don't know whether there is a record
22 kept --

1 A I know my name is on a list that I can go
2 up and down all the time, that they don't have to
3 call and have somebody go with me. But I don't know
4 if they keep a record of it.

5 Q Do you know if Maggie Williams is on that
6 list?

7 A I don't know who is on the list. It is
8 maintained by the Secret Service. They know me.

9 Q Have you ever seen Maggie Williams --
10 strike that.

11 In July-August 1995, did you ever see
12 Maggie Williams in the book room?

13 A Late August I saw her up there.

14 Q When you saw Ms. Williams in late August,
15 what was she doing in the book room?

16 A By then they had moved the table out and
17 put in the two tables for the computers to be in
18 there. They were working on the book.

19 Q The book room was the room Mrs. Clinton
20 used to work on her book?

21 A She stayed in her office on the third
22 floor. This was the other people that were helping

1 that were in the book room.

2 Q Mrs. Clinton did her work on the book in
3 the office that had the closet where the Foster
4 documents were kept?

5 A Yes.

6 Q Other people used the book room?

7 A Yes, because it had two computers in it.

8 Q When did you learn that other people would
9 be using the book room?

10 MR. BEN-VENISTE: Wait a minute. The
11 Foster documents weren't kept there at that time. I
12 think that is a little confusing, your question. The
13 Foster documents were up there long before.

14 BY MR. GIUFFRA:

15 Q The same room where the Foster documents
16 were stored.

17 A Where my financial documents were.

18 Q When did you learn that the book room would
19 be used by the people who would be assisting
20 Mrs. Clinton with her book?

21 A I didn't learn it until I went up there and
22 saw them there. Nobody consulted me.

1 Q Nobody told you to clean out the book room?

2 A No. I always tried to keep things that I
3 knew that I needed to take care of out of there.

4 Q Have you ever seen Susan Thomases in the
5 book room?

6 A No.

7 Q Have you ever seen Susan Thomases in
8 Mrs. Clinton's office?

9 A What office?

10 Q The office on the third floor of the
11 residence that she has.

12 A No.

13 Q You know who Susan Thomases is?

14 A Yes, I know Susan.

15 Q Have you ever seen Ms. Thomases on the
16 third floor of the White House?

17 A Not that I can recall.

18 Q You seem to recall quite clearly -- do you
19 recall quite clearly putting the folded up records in
20 the box?

21 A Yes.

22 Q Why do you recall --

1 A I just was picking up stuff and it was a
2 big package of stuff, so I remember it.

3 Q This was unusual, different than the normal
4 things you would be putting into boxes?

5 A No, because a lot of times I would be
6 putting in books and papers, newspapers, magazine
7 articles, that type thing.

8 Q There is no particular reason why you
9 recall putting these in but you definitely recalled
10 putting these into the box?

11 A I knew they needed to be filed. I thought
12 somebody put it there for me to file, so I stuck it
13 down in my box to take back to my office to file.

14 MR. GIUFFRA: Why don't we mark these
15 pictures as exhibits. These are copies,
16 Mr. Schuelke? Are these our copies?

17 MR. SCHUELKE: They are photographs. You
18 can have them. Knock yourself out.

19 (Huber Exhibits 2 through 8 identified.)

20 BY MR. GIUFFRA:

21 Q The box that contained we will call it the
22 Rose billing records, you maintained that in your

1 office from early August 1995 until January 4, 1996?

2 A Yes, sir.

3 Q And as far as you know, the billing records
4 were there the entire time?

5 A Yes.

6 Q Now, why don't you describe for the record
7 how you found the records on January 4th.

8 A On January 3rd I had finished my new
9 furniture -- my new furniture got into my office. I
10 had some built-ins, like shelves on the walls,
11 built-in desk. I had a large table, about a 6-foot
12 table by 3 feet. This table was beside my old desk
13 over these records. On Thursday morning, the movers
14 came over, moved out the table and it just exposed
15 all the stuff on the floor. I thought I have to get
16 this stuff up off the floor. I needed to have some
17 kind of organization in my office.

18 So, I went over to the box and picked up
19 these records, opened it up.

20 Q And what did you see?

21 A I didn't say a thing. I was there by
22 myself. I was horrified.

1 Q Why were you horrified?

2 A Because I knew that it was documents that
3 were needed.

4 Q Why did you know that they were documents
5 that were needed?

6 A Because we had had subpoenas about Madison
7 before.

8 Q And you had spoken with Mr. Kendall about
9 subpoenas regarding Madison?

10 A I'm not sure if I ever spoke to David. I
11 got a subpoena about it.

12 Q You personally got a subpoena?

13 A Yes.

14 Q Did you ever talk to Mrs. Clinton about
15 Madison subpoenas?

16 A No. So, I was so surprised that that's
17 what it was.

18 Q They were still folded over in the box?

19 A Yes. I pulled them out because I was
20 getting stuff out of the box and was going to put it
21 up. I was so surprised because I couldn't believe
22 that's what it was.

1 Q What did you do next?

2 A The next thing I did was just sit there a
3 minute. Then I called David Kendall.

4 Q And then what happened next?

5 A I couldn't get David right then. So he
6 called me back, and I asked him to come to my office
7 because I wanted to show him a document I found.

8 Q Do you recall what time of day?

9 A It was close up until noontime.

10 Q When did Mr. Kendall call you back?

11 A It was probably about an hour before he
12 could come by.

13 Q So about 1:00?

14 A I would think so.

15 Q Now, between the time that you called --
16 the time that you found the documents and Mr. Kendall
17 coming over at 1:00, did you call anyone else?

18 A No, I did not.

19 Q You didn't call your lawyer?

20 A I called him after David, yes.

21 Q But you didn't call Mrs. Williams?

22 A No.

1 Q Did not call the First Lady?
2 A No.
3 Q And you stayed in your office the entire
4 time?
5 A Yes.
6 Q Did you advise anyone in your office about
7 the discovery of these records?
8 A No, I didn't.
9 Q Did Mr. Kendall advise you not to call
10 anyone?
11 A He didn't advise me, no. I just knew I
12 shouldn't. I didn't want to say anything about it.
13 Q What did Mr. Kendall say to you when you
14 first told him about the records?
15 A He just said that he would call me back
16 after he left.
17 Q When you first told him that you found
18 these records --
19 A I didn't even tell him on the telephone
20 what I wanted. I just said David, would you come by
21 my office, I have a document I would like for you to
22 see that I have found.

1 Q Then he came over to your office?
2 A Yes. I handed it to him.
3 Q How much later was that?
4 A About an hour or so later.
5 Q So about 2:00?
6 A Yes.
7 Q So what happened?
8 A He looked at the record and he left.
9 Q Did he take the record?
10 A No. He left it in my office.
11 Q Did he touch the record?
12 A Yes. He looked at the record.
13 Q He looked through the records?
14 A Yes.
15 Q Did he make any phone calls from your
16 office?
17 A No.
18 Q He said keep the record, Ms. Huber?
19 A I don't know if he said that or what. He
20 just said I will get back in touch.
21 Q Then what happened next?
22 A Then the next thing, at 5:00, my lawyer,

1 Hank, Mr. Schuelke, and Ms. Sherburne and Mr. Kendall
2 came back to my office.

3 Q Did you stay in your office the entire
4 time?

5 A Yes.

6 Q Didn't go out for lunch?

7 A No, I do not go out for lunch.

8 Q Then they all came to your office?

9 A Yes.

10 Q And what happened next?

11 A They looked at the record and then we
12 decided that -- Ms. Sherburne -- I don't know who
13 decided we needed to copy it. So, we had to go over
14 to the new Executive Office Building and copy it.

15 Q Did you put the records in an envelope or
16 did it just get carried over?

17 A I don't remember if we just carried them
18 over there or what.

19 Q Ms. Sherburne made a copy of the record
20 then?

21 A She helped me photograph them. We both
22 photographed two copies. We had to go over there

1 because they had a machine that made color.

2 Q Did Ms. Sherburne say anything else to you?

3 A No.

4 Q Did Mr. Kendall say anything else to you?

5 A No.

6 Q Did they ask you where you found the
7 records?

8 A Yes.

9 Q What did you tell them?

10 A I told them the story I told you.

11 Q Have you spoken to Ms. Sherburne since that
12 time?

13 A No, I have not.

14 Q Have you spoken to Mr. Kendall since that
15 time?

16 A No.

17 Q After you made the copies of the records
18 over at the new Executive Office Building, what
19 happened next?

20 A It was 10:00 at night, so we all went
21 home.

22 Q Who took custody of the records?

1 A Mr. Kendall.

2 Q He took custody of both copies and the
3 original?

4 A Ms. Sherburne got one and he took two.

5 MR. KRAVITZ: So the record is clear, you
6 have referred to an original. My understanding is
7 that what you have referred to as an original was
8 itself a copy; is that correct?

9 THE WITNESS: Yes.

10 BY MR. GIUFFRA:

11 Q Why did it take so long to copy the
12 documents?

13 A You should see this machine. I wish we had
14 had a fast machine. It was horrible. It was so
15 slow. It was a color machine. I didn't realize it
16 takes longer to make colored copies. Then we ran out
17 of ink and we had to fill the ink and we had to fill
18 the paper. I never ran a color Xerox machine
19 before. So I had to learn how to use it. We were
20 doing 11 by 17 pages. That takes longer when you do
21 a longer page.

22 Q From the time when Ms. Sherburne and

1 Mr. Kendall came in the afternoon until about 10:00,
2 how long did you spend on the copying?

3 A I was copying it for the whole time.

4 Q You spoke to them for about a half hour and
5 then the copying?

6 A No. We didn't speak hardly at all. We
7 went right on to make copies.

8 Q So it took about five hours to make the
9 copies?

10 A Yes, because we were making two copies.

11 Q Did you speak to anyone else that evening?

12 A I certainly did not.

13 Q On the day you found the records, did you
14 speak to Mrs. Clinton at all?

15 A No, I didn't.

16 Q Did you speak to Ms. Williams on the day
17 you found the records?

18 A No, I didn't.

19 Q Have you discussed -- strike that.

20 With whom have you discussed the finding of
21 these records?

22 A My attorney.

- 1 Q Here today?
2 A Yes.
3 Q The grand jury?
4 A Yes.
5 Q Anyone else?
6 A David, when I told David, but we didn't
7 discuss it. I just showed him the paper. That was
8 it.
9 Q You haven't discussed it with anyone else?
10 A No.
11 Q Have you discussed the finding of the
12 records with Mrs. Clinton?
13 A No. I have not spoken with her since
14 December 22nd.
15 Q How do you know you haven't spoken with her
16 since December 22nd?
17 A Because that's the day I left to go home.
18 I was gone until January 2nd when I came back.
19 Q You haven't spoken to her since that time?
20 A No, I have not.
21 Q Have you spoken to Ms. Williams since you
22 found the records?

- 1 A No. She called one day this week just to
2 see how I was, but she did not ask about the record.
3 We did not discuss the record. She called to see if
4 I was okay and that was it and hung up.
5 Q Because of all the publicity?
6 A Yes. She had heard my name in the paper.
7 Q Since you found the records, have you
8 spoken to Ms. Thomases?
9 A Yes. I talked to her last week one day.
10 It wasn't about that. It was about a personal bill
11 with American Express.
12 Q The Clintons' personal bill?
13 A Yes.
14 Q When was the first time you ever saw these
15 records?
16 A It was the 1st of August. I mean, I did
17 not see the document. I picked it up. I did not see
18 the inside. The first time I saw it on the inside
19 was January 4th.
20 Q You think it was August 1st that you saw
21 the document?
22 MR. BEN-VENISTE: She said early August.

1 BY MR. GIUFFRA:

2 Q Do you think it was August 1st?

3 A Early August.

4 Q The first week of August?

5 A Sometime around the first, the first week.

6 Q Early in the first week of August?

7 A I don't know if it was the first part of

8 the week or last part.

9 Q But the first week in August?

10 A Around that time.

11 Q Do you know how these records were found --
12 strike that.

13 Do you know how these records made their
14 way to the book room?

15 A I have no idea.

16 Q And you have never spoken to Mrs. Clinton
17 on any occasion about Rose Law Firm billing records?

18 A No, I have not.

19 Q During the 1992 presidential campaign, did
20 anyone ask you to obtain any Rose Law Firm billing
21 records?

22 A I cannot recall them asking me to do that,

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1 to do it.

2 Q Did anyone ask you to retrieve any
3 documents -- strike that.

4 Do you recall if Mr. Foster asked you to
5 retrieve any documents during the presidential
6 campaign?

7 A I cannot recall him asking me.

8 Q Mr. Hubbell?

9 A Or Mr. Hubbell. Everything -- during the
10 campaign, we were not allowed to talk to reporters or
11 anything. Everything went through Mr. Hubbell and
12 Mr. Foster.

13 Q When reporters would call the Rose Law
14 Firm, you mean?

15 A Yes.

16 Q In responding to questions, did they ever
17 ask you to gather any documents?

18 A I don't remember them asking me, no. I did
19 take the Clintons -- you are talking about those five
20 or six boxes I had? I took those over to the
21 campaign office. They called me to take them over
22 there, and somebody else had already taken them over

1 there. That was at midnight one time.

2 MR. SCHUELKE: Indulge us one moment.

3 (Pause.)

4 THE WITNESS: During the campaign they were
5 always asking me about the Clintons' personal
6 records. I had those boxes.

7 BY MR. GIUFFRA:

8 Q This would be the financial records?

9 A Yes.

10 Q Who was asking you about it?

11 A People in the campaign office, Ms. Loretta
12 Lynch and Roger Martin.

13 Q Do you recall anyone else asking you?

14 A No.

15 Q Do you recall any of the questions they
16 were asking you?

17 A They just were looking at checks.

18 Q Did they mention Whitewater Development?

19 A Some of them were for Whitewater.

20 Q Did they ever mention Madison Guaranty?

21 A No. I moved the boxes from the mansion
22 over to my office at the Rose Law Firm and had them

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1 locked up in a closet I kept right by my office so it
2 would be closer so I didn't have to go to the mansion
3 to look them up.

4 Q Did you discuss moving the boxes from the
5 mansion to the Rose Law Firm with Mrs. Clinton?

6 A I don't recall it. I wouldn't have had to
7 ask them to move them over there.

8 Q Ordinarily you would go to the mansion and
9 do your work?

10 A That's right. I would not see her. I was
11 just volunteering my services.

12 Q Do you recall approximately when the boxes
13 were moved from the mansion to the law firm?

14 A It would had to have been in early '92, but
15 I don't know exactly.

16 Q February?

17 A Probably before that, maybe January.

18 Q Did you ever speak to -- strike that.

19 The two people you had contact with were
20 Mr. Martin and Ms. Lynch?

21 A Yes.

22 Q You don't recall speaking to Mr. Hubbell

1 and Mr. Foster about the Clintons' financial records?

2 A No.

3 Q Did you speak to a man named James Lyons
4 about the Clintons' financial records?

5 A No, I did not.

6 Q You mentioned a midnight episode. What was
7 that?

8 A It was in early February. They were --
9 there was a story they were answering that came out
10 about the Clintons' financial records.

11 Q This was in The New York Times?

12 A I think it was.

13 Q A man named Jeff Gerth? Does that ring a
14 bell?

15 A I'm not sure who did the article. I was at
16 the Repertoire Theater, and they had been trying to
17 get me that night.

18 Q Did you have a pager then?

19 A No. Mrs. Clinton called me at home and
20 asked me to go to the Rose Firm and get the records
21 and take them to the campaign headquarters. When I
22 got to the Rose Firm, they had already been taken

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1 down there. I don't know who had taken them down
2 there. I called and told them they were not at the
3 Rose Firm. She said they had already been taken down
4 there by then.

5 Q Did she say who took them down?

6 A No, she didn't tell me that.

7 Q Do you know of any other records that went
8 from the Rose Firm to the campaign?

9 A Ms. Sue Kathy Jones had some Whitewater
10 files in her office. Those were taken down there,
11 too.

12 Q Were they taken down there on the same
13 night?

14 A Yes.

15 Q How do you know they were taken there?

16 A She was down there looking for them the
17 same night. We went to the campaign headquarters and
18 they were there.

19 Q When you went to the headquarters, who was
20 there?

21 A I don't recall any of the people.

22 Q Do you know if Ms. Thomases was there?

1 A No. I do not remember seeing her.

2 Q Was Ms. Williams there?

3 A I wouldn't have known Maggie at that time
4 if I had seen her.

5 Q Was Ms. Clinton at the campaign
6 headquarters?

7 A No.

8 Q Was Ms. Lynch at the campaign headquarters?

9 A I don't remember seeing her that night.

10 Q You don't recall any of the people who were
11 there?

12 A No. I just went to this table where they
13 had the records. They said they didn't need my
14 help. I went on home.

15 Q Do you recall how many people there were?

16 A About six people.

17 Q Were they looking through the records?

18 A Yes.

19 Q It is your testimony you don't remember who
20 the people were?

21 A No, I just do not. I didn't know them, any
22 of the people on the campaign.

1 Q Was it all women who were in there?

2 A No. There were some men in there too.

3 Q Do you remember how many women and men?

4 A I don't know.

5 Q Evenly divided?

6 A I don't know. They were just campaign
7 workers.

8 Q Do you know of any other occasions when
9 Rose Law Firm documents were moved to the campaign?

10 A No.

11 Q And no one asked you to gather any other --
12 on any other occasion, no one asked you to gather any
13 other records from the law firm and bring them to the
14 campaign that you can recall?

15 A No.

16 Q You don't know if anyone else was ever
17 asked to bring records from the law firm over to the
18 campaign?

19 A No, I do not.

20 Q Do you know whether Mr. Hubbell ever
21 attempted to get any records that were in your --
22 strike that.

- 1 Rose Law Firm had a storage facility at
2 Little Rock; correct?
3 A Yes.
4 Q And that was located close to the law firm?
5 A No, it wasn't real close.
6 Q Did anyone ever ask you to retrieve any
7 documents from the storage facility during the
8 campaign that you can recall?
9 A Not that I can recall. We had people that
10 worked out there. They could have called the people
11 that worked out there.
12 Q No one ever asked you to get any documents?
13 A No, I didn't go out there.
14 Q This night, the night of the midnight
15 episode, was it a weekend night?
16 A It was a Saturday night.
17 Q Do you remember the name of the show that
18 you went to see?
19 A At the Repertoire Theater?
20 Q Yes.
21 A No.
22 Q It was at the Repertoire Theater?
-

- 1 A Yes.
2 Q But you don't recall the name of the show?
3 A No.
4 Q You wouldn't know whether it was February
5 12th?
6 A No, I wouldn't. I would have to look at a
7 calendar, I guess. I don't remember what day it
8 was. It was 1992. That's four years ago.
9 Q Let's go back to these pictures. This one
10 is Huber Exhibit 2. Your lawyer took these pictures
11 when?
12 A The night or the evening we found the
13 documents.
14 Q He came over with a camera and took the
15 pictures. In which box were the documents?
16 A It is one of these right here. Just a
17 minute.
18 (Witness examined the photos.)
19 It is this one, I think. I'm trying to
20 find it. I think it is in this one right here, this
21 one (indicating) I can't see the picture that I --
22 Q You took all these pictures and now you

1 can't find the box.

2 A It is this one right here (indicating). I
3 remember this little picture in here because I had no
4 clue as to who these people were. That's the job I
5 have, trying to identify these people to put up.

6 Q Huber Exhibit 5. Ms. Huber, there is a box
7 approximately in the middle of the picture, and you
8 believe that the documents were in that box?

9 A Yes.

10 MR. SCHUELKE: The one which the hat is
11 touching in the photograph.

12 BY MR. GIUFFRA:

13 Q Where in the box were the records?

14 A Just stuck down in there.

15 Q Stuck down the side?

16 A Yes, just standing up stuck down in there.

17 Q Your table had been covering the box?

18 A Yes. It was about a 6-foot by 3-foot
19 table. It was over the top of it. I didn't notice
20 it. It shows how messy my office is. I don't like
21 for you to see it.

22 Q Ms. Huber, are you familiar with

1 Mr. Foster's handwriting?

2 A Yes.

3 Q Let me show you a document which bears
4 Bates number DKSJ 028933. There is some writing in
5 red on the original, the copy we got from Mr. Kendall
6 called our original. It says "HRC, I believe there
7 was a subsequent bill." Does that appear to be
8 Mr. Foster's handwriting?

9 A Yes.

10 Q The next page, DKSJ 028934, there is also
11 some handwriting: "HRC, this suggests first
12 matter." Does that also appear to be Mr. Foster's
13 handwriting?

14 A Yes.

15 Q On the next page --

16 A That's the same stuff.

17 Q Same thing.

18 Have you looked through these billing
19 records?

20 A Just when I Xeroxed them, kind of scanned
21 them just when I was Xeroxing them, and yesterday I
22 looked at them.

1 Q From the times you have looked at them, is
2 Mrs. Clinton's handwriting on these billing records?

3 A I think it is once or twice. That's hers,
4 it looks like. That looks like her handwriting.

5 Q DKSX 029022, it looks to be a Post-It.

6 A This is not hers.

7 Q This would be -- the handwriting up on the
8 top, that would be Mrs. Clinton?

9 A That looks like it.

10 Q Where it says "bill against retainer."

11 A Yes.

12 Q Down at the bottom "applied retainer, due
13 this matter," is that Mrs. Clinton's?

14 A No.

15 Q You mentioned there was another place.

16 A Yes.

17 Q DKSX 029027, where it says "prepare bill"?

18 A Yes.

19 Q Are you aware of any other place in these
20 billing records?

21 A It seems like there was one other place.

22 Yesterday I did.

1 Q Take your time.

2 A I don't know what page it is on.

3 Q Is it right up here?

4 A That might be her writing, but it doesn't
5 look too quite like it. That's not the one I'm
6 looking for.

7 This is it right here.

8 Q This is page DKSX 028983, and then it says
9 "S -- where are other Madison matters? PLS.
10 Check," underlined. Those are the only places you
11 are aware of?

12 A Yes, that I told you about that I remember
13 from looking yesterday.

14 MR. SCHUELKE: He wants to know are they
15 the only ones. You better look through.

16 THE WITNESS: You want me to look through
17 each page? I did it yesterday and I can't remember
18 how many times. I didn't count them.

19 MR. GIUFFRA: Go ahead and look through.
20 (Witness examined the document.)

21 THE WITNESS: There wouldn't be any on the
22 bills. It would be on these things.

1 (Witness examined the document.)

2 BY MR. GIUFFRA:

3 Q Are you familiar with these types of
4 records from your time at --

5 MR. BEN-VENISTE: Let her do one thing at a
6 time.

7 THE WITNESS: Yes, I would see them at
8 certain times. Sometimes I collected money and I
9 would see them. I used to call our deadbeat clients
10 sometimes.

11 (Witness examined the document.)

12 BY MR. GIUFFRA:

13 Q See where it says "hold"?

14 A That means they didn't want to bill it on
15 that particular bill. That's the bookkeeper.

16 Q That's the bookkeeper's handwriting?

17 A Yes.

18 MR. BEN-VENISTE: We are still looking for
19 Mrs. Clinton's handwriting? Let her do that first,
20 okay? My experience, it is a good idea to get the
21 first job done before you interrupt with the second
22 job. Just put a clip there and come back.

1 BY MR. GIUFFRA:

2 Q DKSX 026982, we will come back to that.

3 (Witness examined the document.)

4 A That one, did you want to mark that one?

5 Q DKSX 02893. What is the S with the dash?

6 A I'm sure that was her secretary.

7 Q What was her secretary's name?

8 A At that point I think it was Sandra Moody,
9 but I'm not sure.

10 Q What year was that?

11 A This was 1985.

12 Q Do you think she was her secretary in 1985?

13 A About that time, yes.

14 Q Do you know who Mrs. Clinton's secretary
15 was in 1992?

16 A Milli Alston.

17 Q Okay.

18 (Witness examined the document.)

19 A I don't know how many pages there are to
20 these. That's not her writing.

21 Q That's page lower right corner 29016.

22 A That one you got.

1 Q That's on the top of page 29022.
2 (Witness examined the document.)
3 A That one, you got that one.
4 Q Yes.
5 MR. KRAVITZ: What is that?
6 MR. GIUFFRA: 29027.
7 (Witness examined the document.)
8 THE WITNESS: That one is Mrs. Clinton.
9 BY MR. GIUFFRA:
10 Q That's 29032 at the top where it says "S --
11 prepare bill."
12 (Witness examined the document.)
13 Are you familiar with the handwriting on
14 page 29042?
15 MR. BEN-VENISTE: Which handwriting?
16 BY MR. GIUFFRA:
17 Q The top corner where it says "draft bill."
18 A It says "narrative." They wanted a
19 narrative style bill, but I don't recognize that
20 handwriting.
21 Q How about the "services rendered by Hillary
22 Rodham Clinton"?

1 A I don't know whose handwriting that is.
2 That's it.
3 Q Now, during your time as firm
4 administrator, were you familiar with the firm's
5 billing procedures?
6 A That the attorneys billed, yes.
7 Q Is this a process you were normally
8 involved in?
9 A No, I wasn't involved in it, but I knew the
10 process. Only attorneys could bill their clients.
11 Q This is page DKS N 28960. This is an entry
12 which is RNM, which is Mr. Massey, and it is circled
13 and there is a hold. What does that mean?
14 A They were billing -- all these entries are
15 June. This is my -- I'm just -- this is the way we
16 usually bill monthly.
17 MR. SCHUELKE: This is the way you
18 interpret them?
19 THE WITNESS: Yes. We were only billing
20 June time. This was a July entry. They sent -- the
21 girl in accounting knew we don't bill July on to
22 June. We hold it and then the next month it would

1 come down again. We tried to get the lawyers to bill
2 monthly, but that was very hard to do. That was one
3 of my jobs, to go around if they didn't bill and say
4 you have to bill.

5 BY MR. GIUFFRA:

6 Q My old law firms, if you didn't do your
7 billing, they wouldn't pay you.

8 A We wouldn't pay them if they didn't put
9 their time in.

10 Q That's what we did.

11 This is on page 8994. It says "combine
12 with prior bill."

13 A That looks like Mrs. Clinton's writing. It
14 was just a photocopy and a little time. So it went
15 in with -- I don't know what the prior bill was.

16 Q There are some numbers written in on page
17 029011 at the bottom of the page where it says
18 "amount to bill" and then it has a number. Does
19 that look like Mrs. Clinton's handwriting?

20 A No, no. That's the little accounting
21 clerk. I recognize her writing. It is Carrie.

22 Q What is her last name?

1 A Oh, goodness. I knew you were going to ask
2 me that. That was back in 1986.

3 Q You are quite certain it is somebody --

4 A Carrie, she was there and she got married.
5 I can't remember her married name and her other
6 name.

7 Q Maybe just in helping us interpret this
8 bill, in this particular entry, it has a matter value
9 of \$912.50 and then the amount to bill is \$2731.25.

10 Do you know why that number would be
11 different?

12 A I have no idea. You would have to -- the
13 attorneys did their own numbers. I didn't know.

14 Q The attorney would be the person --

15 A They would be the person that would do the
16 allocation of the billing.

17 Q If Mrs. Clinton was the billing partner,
18 she would be the person telling the people in
19 accounting what amount to bill the client
20 ordinarily?

21 MR. SCHUELKE: If you know.

22 THE WITNESS: I don't know. In the normal

1 course, that's how it runs. But it is not always
2 true to form that it does that.

3 BY MR. GIUFFRA:

4 Q Typically --

5 A Typically that's how it works in the Rose
6 Law Firm, the billing attorney does.

7 Q The billing attorney would sometimes call
8 the accounting department and give them the
9 numbers --

10 A Yes.

11 Q -- by telephone?

12 A No. Usually those girls went around and
13 met with the attorneys. They would tell them how to
14 bill it.

15 Q Why don't you just give us a little bit of
16 a summary of what you know about the billing process
17 at the Rose Law Firm.

18 MR. BEN-VENISTE: Can we go off these
19 documents for a moment?

20 MR. GIUFFRA: Yes.

21 MR. BEN-VENISTE: Do you mind if I ask a
22 couple questions?

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1 MR. GIUFFRA: Certainly.

2 MR. BEN-VENISTE: Because I have to go to a
3 meeting shortly.

4 EXAMINATION

5 BY MR. BEN-VENISTE:

6 Q Mrs. Huber, you indicated that the
7 notations of Mr. Foster were in red ink and that you
8 made color copies so that we have red ink on our
9 copy.

10 A Yes.

11 Q Could you tell whether in fact Mr. Foster's
12 handwriting was in original red ink or did it appear
13 to be a color photocopy that you were looking at?

14 A It looked like an original.

15 Q Now, with respect to the other handwriting
16 that you have been asked to describe, could you tell
17 whether that was original handwriting or whether that
18 was photocopied handwriting?

19 A It was photocopied.

20 MR. BEN-VENISTE: Thank you.

21 EXAMINATION

22 BY MR. GIUFFRA:

1 Q Just tell us what you know about the

2 Rose --

3 A What I know is every month the accounting
4 department runs out everybody's billing memos. They
5 send the billing memos to the billing partner that is
6 in charge of that client. They get their stack of
7 billing memos. Then the accounting clerks call the
8 attorneys to say are you ready to bill your client,
9 we need to bill this back so we can get them out.
10 They would meet with them, try to get the billing
11 memos back, talk to them about it, produce the bills
12 and send them to the attorney to mail out. The
13 attorneys mailed them out.

14 Q How often would the staff from the
15 accounting department visit with the attorneys with
16 regard to a particular matter?

17 A I don't know --

18 Q Was it a monthly process?

19 A Yes. Some bills were put on quarterly
20 billing and some were monthly. If it were on a
21 monthly bill, they came out every month and they
22 visited the attorney to get the bills out. If it

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1 were quarterly, they only did it every quarter.

2 Q Can you tell us from looking at these
3 billing records whether Madison Guaranty was a
4 monthly bill or a quarterly bill client?

5 A There is no indication on this that I can
6 see that says what type. From looking at it, it
7 looks like it was a monthly bill that they would put
8 out.

9 Q What makes you think that it was a monthly
10 bill?

11 A Because I think on the quarterly -- I'm
12 trying to remember back -- that it would be more time
13 entries like for three months. These all look like
14 they may be one month to me, like where I told you
15 they suppressed the one July and only billed the
16 June.

17 MR. BEN-VENISTE: Off the record.

18 (Discussion off the record.)

19 BY MR. GIUFFRA:

20 Q Can you tell from looking at these bills
21 whether Madison Guaranty was billed on an hourly
22 basis or was billed on some other basis?

1 A It looks like most of it is hourly. I
2 would have to look at each one, I guess, and examine
3 it. It looks like hours.

4 Q From what you recall about the Rose Law
5 Firm's procedures back in '85-86, if one lawyer spoke
6 to another lawyer, if I spoke to Mr. Massey -- if
7 Ms. Clinton spoke to Mr. Massey for a half hour, each
8 one of them would record a half hour of time?

9 A Not always. That was not true.

10 Q Not true?

11 A No. Some lawyers would never put the time
12 down. Some did.

13 MR. KRAVITZ: Are you answering that
14 question specifically about Mrs. Clinton and
15 Mr. Massey?

16 THE WITNESS: No. I'm talking about a
17 general rule of the Rose Law Firm.

18 BY MR. GIUFFRA:

19 Q Was Mrs. Clinton, if you know, someone who
20 kept her time very accurately or was she one of the
21 people who was sort of a little bit let it slide?

22 A No. She was a very accurate timekeeper.

1 Q Why do you know that?

2 A Because she was never on the list of not
3 getting her check.

4 Q Was Mr. Massey an accurate timekeeper, if
5 you know?

6 MR. SCHUELKE: You mean timely?

7 THE WITNESS: He means in a timely fashion,
8 I think.

9 BY MR. GIUFFRA:

10 Q In terms of accurately recording how they
11 spent their time in the course of a day, if you know,
12 was Mrs. Clinton someone who accurately recorded how
13 she spent her time during the day?

14 A I don't really know because I didn't read
15 her time records.

16 MR. KRAVITZ: Your answer previously meant
17 that Mrs. Clinton got her time sheets in in a timely
18 manner?

19 THE WITNESS: Yes, in a timely manner.

20 MR. KRAVITZ: You wouldn't know whether
21 they were accurate?

22 THE WITNESS: No, I wouldn't know whether

1 any of the attorneys were.

2 The only reason I would know if they
3 weren't is because I got their paycheck and kept it
4 locked in the safe. I was the keeper of the
5 paychecks.

6 BY MR. GIUFFRA:

7 Q You had a lot of power.

8 A The payroll supervisor sent them to me.

9 Q Ms. Huber, did there come a time in 1985-86
10 that you learned that Madison Guaranty had retained
11 the Rose Law Firm to be --

12 A The only way I would have known is we have
13 a new client thing that goes around all the time that
14 every day that will say if we got a new client. We
15 have a little newsletter and it would put all the new
16 clients on.

17 Q You don't recall seeing Madison on the new
18 client list?

19 A I'm sure I did.

20 Q You have no recollection as you sit here
21 today?

22 A No. I mean, every day we would put out who

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1 the new clients were.

2 Q Have you ever heard of something called
3 Castle Grande?

4 A No.

5 Q Do you know a man named Seth Ward?

6 A I know who he is. I used to -- I have seen
7 him in our law firm. But I do not know him. I know
8 who he is. If I saw him, I would know him. That's
9 it.

10 Q Was he a regular visitor at the Rose Law
11 Firm?

12 A I would see him there. He was just coming
13 for a friendly visit. Or I thought. I don't know
14 what he was coming other than to see his son-in-law.

15 Q Mr. Hubbell?

16 A Yes.

17 Q Do you know if Mrs. Clinton knows Mr. Ward?

18 A I don't know to be sure. I have never seen
19 her talk to him.

20 Q Ms. Huber, when did you first hear that
21 Mr. Hubbell might have trouble with regard to his
22 expense -- the way he was handling his expenses at

1 the Rose Law Firm?

2 A When it was in the news --

3 MR. SCHUELKE: When did she hear that it
4 was a matter under investigation?

5 MR. GIUFFRA: Let's rephrase the question.

6 BY MR. GIUFFRA:

7 Q When did you hear that there might be a
8 problem with regard to how Mr. Hubbell had done his
9 expenses at the Rose Law Firm?

10 A In the paper. It was in the newspaper. I
11 don't discuss these kind of matters with people at
12 the Rose Law Firm. So I didn't know they were having
13 a problem.

14 Q You don't recall discussing it with anyone
15 during 1993?

16 A No.

17 Q The first you heard of his problem was when
18 it was in the newspaper?

19 A Yes.

20 Q You never discussed Mr. Hubbell's problem
21 with Mrs. Clinton?

22 A No.

1 Q Do you know anything about the type of
2 legal services that the Rose Law Firm provided to
3 Madison?

4 A No. I wouldn't know that.

5 Q Have you ever heard of something called
6 Flowerwood Farms?

7 A No.

8 Q Were you aware that in 1991, Mr. Kennedy
9 was providing some legal services to Mrs. Clinton
10 with regard to Whitewater Development Corporation?

11 A Yes.

12 Q How did you become aware of the fact that
13 Mr. Kennedy was doing some work for Mrs. Clinton with
14 regard to Whitewater Development Corporation?

15 A I know through the accountant, Yoly
16 Redden. She told me that Mr. Kennedy was doing some
17 legal stuff on the Whitewater because she had to
18 supply records to him because she was the Clintons'
19 accountant.

20 Q Did you have any discussions with
21 Mrs. Clinton about the fact that Mr. Kennedy was
22 providing these legal services to her?

1 A Other than I knew she told me she asked
2 Mr. Kennedy to help her.

3 Q Did you provide any documents to
4 Mr. Kennedy?

5 A I don't think we had any documents. Yoly
6 had some of them that she brought over there. We
7 would have only had like some old checks or things
8 like that. Mrs. Redden would have had the tax
9 returns that she kept at her office.

10 Q Even though you were the office
11 administrator of the Rose Law Firm in 1981, you at
12 the same time handled her finances like handling her
13 checking account?

14 A All I did was balance the checks because
15 she wrote her own checks. When it was tax time, I
16 would get all the stuff collected that she needed for
17 taxes and take them over to the accountant.

18 Q Would you do that work over at the
19 governor's mansion and office there?

20 A Yes.

21 Q When did you first learn that the Clintons
22 had an investment in Whitewater Development

1 Corporation?

2 A I'm sure back in '79 I probably heard of
3 it. It was just in passing. It was nothing that I
4 knew about. I didn't know anything about it. I
5 never saw any files or anything on it.

6 Q Now, you testified that Mr. Kennedy was
7 doing some work with regard to Whitewater.

8 A Yes.

9 Q Did you ever learn that Mr. Foster was
10 doing any work?

11 MR. SCHUELKE: At what time?

12 BY MR. GIUFFRA:

13 Q At any time.

14 A Yes, in December of 1992.

15 Q In December of 1992 you learned Mr. Foster
16 was doing some Whitewater?

17 A Yes.

18 Q What did you learn that he was doing?

19 A That they were selling all of their shares
20 out to Mr. McDougal and they paid him a thousand
21 dollars for it.

22 Q Do you know where Mr. McDougal got the

1 thousand dollars to pay the Clintons?

2 A No.

3 Q Did you ever talk to Mr. Blair about
4 Whitewater Development Corporation?

5 A No.

6 Q Do you know Mr. Blair?

7 A I know him quite well, but I have never
8 talked to him about Whitewater Development
9 Corporation.

10 Q On any occasion?

11 A No. He is just a personal friend.

12 Q Have you spoken to Mr. Blair in the last
13 three weeks?

14 A I saw him yesterday in Little Rock and said
15 hello. But I have not talked to him, no.

16 Q Didn't talk to him about the discovery of
17 these documents?

18 A No. The last time I saw him was on his
19 birthday, October 27th. His birthday is the 25th but
20 he was here for the 27th.

21 Q You saw him where yesterday?

22 A He was at the Tucker hearing. We had to

1 pass right by them.

2 Q He was attending the hearing?

3 A Yes.

4 MR. SCHUELKE: Off the record.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q After Mr. -- your understanding is
8 Mr. Foster handled the sale of -- the Clintons' sale
9 of Whitewater back to Mr. McDougal?

10 A Yes.

11 Q Do you know whether Mr. Foster did any
12 other work related to Whitewater?

13 A I don't know if he did any. I don't know.

14 Q Were you aware that Mr. Foster was doing
15 any work with regard to Whitewater while he was at
16 the White House?

17 A No.

18 Q Have you ever talked to Mr. Lindsey about
19 Whitewater?

20 A No.

21 Q Do you know Mr. Lindsey?

22 A You mean Bruce Lindsey?

1 Q Yes.
2 A I know him, but I never talked to him.
3 Q About Whitewater?
4 A I never talked to him.
5 Q Has Mr. Lindsey or anyone from his office
6 ever asked you to provide documents?
7 A No.
8 Q Has Mrs. Clinton ever asked you to provide
9 documents to Mr. Lindsey?
10 A No.
11 Q Checks, canceled checks?
12 A No.
13 Q Do you know whether Mr. Lindsey has ever
14 looked through the personal and financial records of
15 Mr. and Mrs. Clinton?
16 A No, I don't.
17 Q Has Mr. Lindsey ever been in the book room
18 as far as you know?
19 A No, not as far as I know.
20 Q Just to be clear on this, other than the
21 President, Mrs. Clinton, yourself and guests --
22 A And Ms. Marshall. We have access to go up

1 there.
2 Q Do you know of anyone else who has been in
3 the book room?
4 A No, I don't.
5 (Counsel conferred with the witness.)
6 BY MR. GIUFFRA:
7 Q Is there something you want to add?
8 A It was in late August, September, October,
9 there were the book people.
10 Q Who were the book people?
11 A I can't remember their names. They were
12 from Simon Schuster. They were there typing and
13 working on the book, and I don't remember -- I didn't
14 meet all of them because I didn't go up there.
15 Q As of the time you found the document, you
16 don't recall seeing anyone else in the book room?
17 A No.
18 Q Would you consider the book room to be a
19 fairly private part of the White House?
20 A Yes.
21 Q Within the personal quarters of the
22 President and First Lady?

1 A Yes, because everybody is gone so it is
2 getting filled up again.

3 Q Was the book room -- you mentioned guests
4 would sometimes -- would guests who would come to the
5 White House sometimes go to the book room?

6 A Sometimes they would exercise.

7 MR. SCHUELKE: She testified they would
8 occasionally use the exercise room.

9 BY MR. GIUFFRA:

10 Q Other than that.

11 A I don't know. I am not with them all the
12 time.

13 Q There are sleeping quarters on the third
14 floor?

15 A Yes.

16 Q Do you know whether Ms. Thomases ever spent
17 the night at the White House?

18 A I didn't see her there. I have made
19 reservations for her to spend the night.

20 Q Are there records kept of who has spent the
21 night at the White House?

22 A Yes.

1 Q Who keeps those records?

2 A I do. I keep a record of them.

3 Q You testified that your first recollection
4 of Whitewater Development Corporation is about 1979.
5 Did there come a time when Mrs. Clinton asked you to
6 take any action with regard to the Clintons'
7 investment in Whitewater?

8 A No. Wait just a minute. You mean about
9 their taxes?

10 Q Or anything.

11 A Okay. I have done that, called the tax
12 assessors. I did a tax assessment to see if the
13 property tax had been paid on the land up there.

14 Q Was this something you did every year?

15 A I'm not sure if I did it every year, but I
16 did it several years I know.

17 Q This was something Mrs. Clinton asked you
18 to check on?

19 A Yes, so I could get the information to
20 Mrs. Redden.

21 (Counsel conferred with the witness.)

22 MR. SCHUELKE: Put your last question to

1 her as to what she may have done in connection with
2 Whitewater.

3 BY MR. GIUFFRA:

4 Q Your counsel stated the question. Do you
5 recall anything you may have done with regard to the
6 Clintons' investment in Whitewater?

7 A I would call the tax assessor. I did
8 that.

9 Q Where was the tax assessor? Was that
10 Pulaski County?

11 A No. It is Flippin, the town, but I can't
12 think of the county. I talked to them to see if the
13 taxes were paid on the property.

14 Q This is something you think you may have
15 done on a yearly basis?

16 A I could have. It didn't seem I did it
17 every year. I didn't do it early on. It was like
18 the last, maybe '86 to '92.

19 Q When was the last time you recall checking
20 to see whether the taxes were paid on the Clintons'
21 investment in Whitewater?

22 A In '91, I think I'm sure I did.

1 Q Why are you sure you did in '91?

2 A '91, I did in '91. And then also I had
3 talked to the bank about some of the payments in '91
4 and '92 on the Whitewater. That's when they were
5 trying to get it cleared out so they could sell it.

6 Q Do you recall any discussions you had with
7 Mrs. Clinton in '91 or '92 about Whitewater?

8 A No. I didn't really discuss it with her.
9 She would tell me to talk to the people up there and
10 then get with the accountant, because Yoly was in
11 charge.

12 Q You mostly spoke with Ms. Redden?

13 A Yes.

14 Q Do you know whether Ms. Clinton spoke with
15 Ms. Redden?

16 A I don't know.

17 Q Do you know how far back the Clintons'
18 records with regard to Whitewater go?

19 A No, I don't. I don't. Back in the early
20 years, we didn't have any files on Whitewater that I
21 had at the governor's mansion.

22 Q Do you know where those files were

1 maintained?

2 A They didn't have any.

3 Q When did the Clintons first get records
4 with regard to Whitewater?

5 A I can't remember when it was. They got a
6 little file -- the first file I remember was just a
7 picture of this place.

8 Q Do you recall when that was?

9 A That was probably earlier, just a picture
10 of Whitewater, a sales brochure. They never really
11 had any records on it. Mr. McDougal had them all.

12 Q Have you ever spoken to Jim McDougal?

13 A Yes, about the taxes, whether they were
14 paid or not. In the early part I would talk to him.
15 Then I could never find him.

16 Q After?

17 A I don't know what years it was. It was
18 really hard to run him down.

19 Q This would have been in the early '80s you
20 may have called Mr. McDougal?

21 A Yes.

22 Q Did you speak to him in his office at the

1 Madison Guaranty bank?

2 A I'm sure he was there one of the years when
3 I tried to find out about the taxes.

4 MR. SCHUELKE: The question was whether you
5 ever met him physically at the bank.

6 THE WITNESS: I never met him. These were
7 telephone calls.

8 BY MR. GIUFFRA:

9 Q Did Mrs. Clinton tell you to call
10 Mr. McDougal? How did you know to call Mr. McDougal?

11 A Because it was kind of a yearly thing. She
12 would ask me if I would call Jim and see if he had
13 paid the taxes.

14 Q Do you know whether Mrs. Clinton ever spoke
15 to Mr. McDougal?

16 A Oh, I don't know.

17 Q Did you ever see -- do you know Susan
18 McDougal?

19 A I met her one time. That was it.

20 Q When was that?

21 A It was in 1979.

22 Q Why do you recall it was 1979?

1 A Because it was right when we first went to
2 the mansion and she was there at a party and I met
3 her and that was it.

4 Q Let me show you some documents. I will
5 take you through them. Do you recall -- before we
6 get into the documents, do you recall --

7 MR. SCHUELKE: Hold on. Listen to the
8 question.

9 BY MR. GIUFFRA:

10 Q Do you recall a time probably after 1986
11 when several boxes of Whitewater documents arrived at
12 the governor's mansion?

13 A Yes, and I took them over to Yoly Redden.

14 Q Who sent the documents to the governor's
15 mansion? Do you know?

16 A Their accountant, Mr. McDougal's
17 accountant.

18 Q Mr. McDougal's accountant?

19 A Yes.

20 Q Do you remember his name?

21 A It is probably in some of the stuff.

22 Q Mr. James?

1 A Yes.

2 Q Charles James?

3 A Yes.

4 Q Did you ever speak to Mr. James?

5 A No.

6 Q Did Mrs. Clinton say anything to you about
7 these records when they arrived?

8 A Yes. I think -- let me see. They came to
9 the governor's mansion and she asked me -- I lived
10 out by where Mrs. Redden's office was. She asked me
11 to take them out so Yoly could have them. I did not
12 look at them. I just hauled all the records over
13 there. I think it was only two boxes.

14 Q The first document is DKSX 010499.

15 Have you ever seen this document before?

16 A I can't remember.

17 Q Let's turn to --

18 A This is 1982. I don't remember.

19 Q Don't worry about it. The next is DK --

20 A That's my writing.

21 Q 010500 is the next one, DKSX 010500.

22 Please read the note.

1 A "Hillary, I did not get to speak to Jim.
2 The lady in his office told me he sold the property
3 late last year. She asked I send the bill to Jim so
4 I did today."

5 Q What does this note refer to, if you know?

6 A I think it was a tax bill, but I'm not
7 sure.

8 MR. KRAVITZ: What is the page number on
9 that?

10 MR. GIUFFRA: DKS N 010500.

11 MR. KRAVITZ: The date?

12 THE WITNESS: 6/23/86. I don't really know
13 for sure what it was.

14 BY MR. GIUFFRA:

15 Q Do you know what the discussion in the note
16 about selling the property means?

17 A No.

18 Q You think the bill is the tax bill?

19 A I really don't know.

20 Q So you don't have any recollection of this
21 note?

22 A No, I don't.

1 Q Do you know a man named Chris Wade?

2 A I have spoken to him several times.

3 Q About Whitewater?

4 A About the lots.

5 Q What do you recall about your discussions?

6 A Asking him about payments or taxes. I
7 would even ask him about taxes.

8 Q Do you know if Mr. Wade spoke to
9 Mrs. Clinton?

10 A I really don't know.

11 MR. KRAVITZ: Did you mean at any time
12 ever?

13 MR. GIUFFRA: Yes.

14 THE WITNESS: And I don't know.

15 BY MR. GIUFFRA:

16 Q The next document is DKS N 010501. It
17 speaks about a Mr. Hazard. Do you know who
18 Mr. Hazard is? Strike that.

19 Is this your handwriting?

20 A Yes, it looks like it is mine.

21 Q Mr. Hazard, do you know who he is?

22 A No.

1 Q It says -- why don't you read it?
2 A "Call Mr. Hazard, tell him we have not
3 received letter from bankruptcy court who is a real
4 estate agent."
5 Q Do you know what this is?
6 A It was on a lot, and the man that bought it
7 had gone bankrupt and he died.
8 Q Is this something called lot 13?
9 A I think it is.
10 Q What do you know about lot 13?
11 A I don't know anything about it other than
12 there is a lot up there, the Helman Logan stuff. I
13 don't know anything about it.
14 Q The person who bought the lot from
15 Mrs. Clinton defaulted on a loan that he had taken
16 out to buy the lot?
17 A He died.
18 Q The estate defaulted on the loan?
19 A Yes.
20 Q Do you know what Mrs. Clinton did about
21 that situation?
22 A She bought that out of bankruptcy.

1 Q Did you ever discuss that with her?
2 A No. She had Mr. Bird at the Rose Law Firm
3 handled this document. She had me give some of the
4 papers to Mr. Bird.
5 Q You don't know who Mr. Hazard is?
6 A No, I don't know who Mr. Hazard is. It is
7 somebody in Arkansas. Mr. Logan lived in
8 Mississippi. Mr. Hazard, I don't know -- he is
9 somebody in Little Rock, but I don't know who he is.
10 MR. SCHUELKE: You are figuring this out
11 from --
12 THE WITNESS: The phone numbers, the area
13 codes.
14 BY MR. GIUFFRA:
15 Q Page DKS N 010502. That's got Mr. Hazard's
16 number on it, and Mrs. Logan's number on it.
17 A Uh-huh.
18 Q You think you may have called Mrs. Logan?
19 A I don't know whether I called her or just
20 got her number.
21 Q This reference to "automobile dealers
22 date," do you know what that has to do with?

1 A No.

2 Q Below that says what?

3 A "Edens 8:00 a.m. letter from her." I don't
4 have any idea "trustee up for sale, final approval,
5 bought and paid for."

6 Q No recollection about that?

7 A No.

8 Q 010503, the next page, there is a reference
9 to Paragould.

10 A That is Arkansas. She had a loan through
11 that bank, in Paragould Security Bank on this lot.

12 Q Do you know anything more about that loan?

13 A No.

14 Q Turn to the next page.

15 MR. SCHUELKE: Hold on a second.

16 (Pause.)

17 BY MR. GIUFFRA:

18 Q The next one 010504. Is this your
19 handwriting above it?

20 A No. That is Hillary's above there. That
21 is her's too.

22 Q Do you know what this has to do with?

1 A "Ann, please type out names I have put X
2 by. Maybe Carolyn Huber could have list done on word
3 processing."

4 Q Do you know who Ann would be?

5 A The lady at the mansion, Ann McCoy.

6 Q She is related to Mr. L.D. Brown?

7 A Yes.

8 Q Do you know Mr. L.D. Brown?

9 A I met him back in 1980, whenever he was a
10 trooper.

11 Q Is she his mother-in-law?

12 A She is the mother-in-law of his.

13 Q The mother-in-law of L.D. Brown?

14 A Yes. The only thing I can think is they
15 were having the Valentine party or Christmas party
16 and they had a list they sent over to me to type up.

17 Q 010505 is the next one. Have you ever seen
18 this document before?

19 (Witness examined the document.)

20 A I can't -- I don't remember.

21 Q This would be the --

22 A It went over to the mansion.

1 Q You don't recall seeing this.

2 A No.

3 Q And then the next one is DKSX 0 --

4 MR. SCHUELKE: Hold on a second, please.

5 (Pause.)

6 BY MR. GIUFFRA:

7 Q I would like to show you a memo which bears
8 Bates number DKSX 010493. Have you ever seen that
9 before?

10 MR. SCHUELKE: Why don't you first read
11 it.

12 (Witness examined the document.)

13 THE WITNESS: It seemed like we were always
14 worried about the taxes.

15 BY MR. GIUFFRA:

16 Q You don't recall writing this memo to
17 Mrs. Clinton?

18 A I know I did.

19 Q What do you recall about it?

20 A I don't recall --

21 Q Other than what it says?

22 A I mean, I see it and I know that that's my

1 name there.

2 Q Do you recall during the 1992 presidential
3 campaign -- I apologize if I asked this question, but
4 just to be clear -- speaking to Loretta Lynch or
5 Roger Martin?

6 A Yes. I told you that.

7 Q Did they show you some checks?

8 A They showed me some documents, but I don't
9 remember what kind of documents now, what it was they
10 were looking at.

11 Q Did they show you an escrow contract?

12 A Yes, I believe they did.

13 Q Did you discuss with them -- did you tell
14 them that you --

15 A What I knew about it. I'm sure I don't
16 remember the conversation.

17 Q Do you recall indicating to them that you
18 didn't believe that Mrs. Clinton or Mr. Clinton's
19 signatures were in fact on --

20 A On the document? Yes, I remember that,
21 yes.

22 Q Why didn't you believe they were on the

1 document, their signatures were on the document?

2 A That they were or were not?

3 Q Were not.

4 A I didn't think that was their signatures?

5 Q Yes.

6 A Do you have the document? I didn't think
7 it was their writing.

8 MR. SCHUELKE: May I have the previous
9 question, please.

10 (The reporter read the record as requested.)

11 BY MR. GIUFFRA:

12 Q This would be the escrow contract for sale
13 of lot 13?

14 A I don't remember if it was lot 13.

15 Q But it was --

16 A Some sort of a document.

17 Q Do you recall anything more about your
18 discussion with Ms. Lynch or Mr. Martin?

19 A No.

20 Q Did you ever speak to Ms. Thomases about
21 Whitewater?

22 A No, I didn't talk to her. Ms. Lynch is the

1 person, and Roger Martin.

2 Q Do you recall discussing anything having to
3 do with Whitewater with Mrs. Clinton during 1992?

4 A No, I don't, because she was on the
5 campaign trail, and I never saw her. I just talked
6 to these people down at the campaign headquarters.

7 Q How many times did you talk to people at
8 the campaign headquarters?

9 A I would say about six or seven times.

10 Q They would ask you to come over?

11 A I didn't go over there. They would call me
12 up on the phone and ask me things.

13 Q Do you recall any of the questions they
14 asked you?

15 A No.

16 Q Do you recall if they asked you any
17 questions about Susan McDougal providing any records
18 to Mrs. Clinton?

19 A No. Susan? No.

20 Q Jim McDougal providing any records to
21 Mrs. Clinton?

22 A No.

1 Q Anything about collecting Whitewater
2 records?

3 A Are you referring to those boxes? I think
4 they were trying to find out where they were. I
5 don't know. They had a mix-up and they wondered
6 where those boxes were. But they were at Yoly's,
7 Mrs. Redden's.

8 Q Which boxes?

9 A The boxes you asked me about earlier that
10 were delivered over to the governor's mansion and I
11 took over.

12 Q They were at Ms. Redden's office?

13 A They were from Mr. James. You asked me
14 about that a while ago.

15 Q We are almost to the very end.

16 A So, I think everybody was excited because
17 they thought they couldn't locate those documents,
18 and they were at Ms. Redden's office.

19 Q Were those two boxes of documents?

20 A Yes.

21 Q Did Mr. Kennedy have two boxes of documents
22 as well?

1 A I don't remember how many he had.

2 Q He had boxes?

3 A Yes. He had some in Sue Kathy Jones
4 office.

5 Q Sue Kathy Jones had some documents?

6 A Yes.

7 Q Those made it over to the campaign?

8 A Yes.

9 Q Ms. Redden had some documents too?

10 A Yes, the accounting documents.

11 Q Those were brought over to the campaign
12 headquarters?

13 A I don't know whether they were or not.

14 Q You remember people being happy they were
15 discovered at Ms. Redden's office?

16 A Yes.

17 Q Do you know who was happy they were at
18 Ms. Redden's office?

19 A I'm sure the campaign workers.

20 Q Those were documents that had previously
21 been at the governor's mansion?

22 A No. Mr. James had dropped them off there

1 that day, and I told you I took them to Ms. Redden.

2 MR. SCHUELKE: Dropped them off there, at
3 where?

4 THE WITNESS: At the governor's mansion,
5 what I already said.

6 BY MR. GIUFFRA:

7 Q Mr. James brought you the documents --

8 A He didn't bring them to me. He brought
9 them to the First Lady and Mr. Clinton. I just
10 happened to go by there, and then I took them to
11 Ms. Redden because she lives out by my house, her
12 office.

13 Q Do you recall when this was, the transfer
14 of the boxes?

15 A It had to be in like 1990 I thought, or
16 '91. It was records they had tried to get, that
17 Mrs. Redden had been trying to get for several
18 years.

19 Q Have you ever discussed Jim McDougal with
20 Mrs. Clinton?

21 A No.

22 Q Other than just checking about the taxes?

1 A Yes, but not any other reason would I have
2 to discuss him.

3 Q Do you know whether during the 1980s the
4 Clintons were ever business partners with Jim Guy
5 Tucker in any investment?

6 A No, I don't know. I never heard of them
7 being together, no.

8 MR. GIUFFRA: I don't have any more
9 questions. Thank you very much.

10 MR. KRAVITZ: I don't have any questions.

11 (Whereupon, at 6:15 p.m., the deposition
12 was concluded.)
13
14

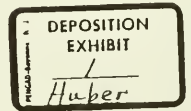
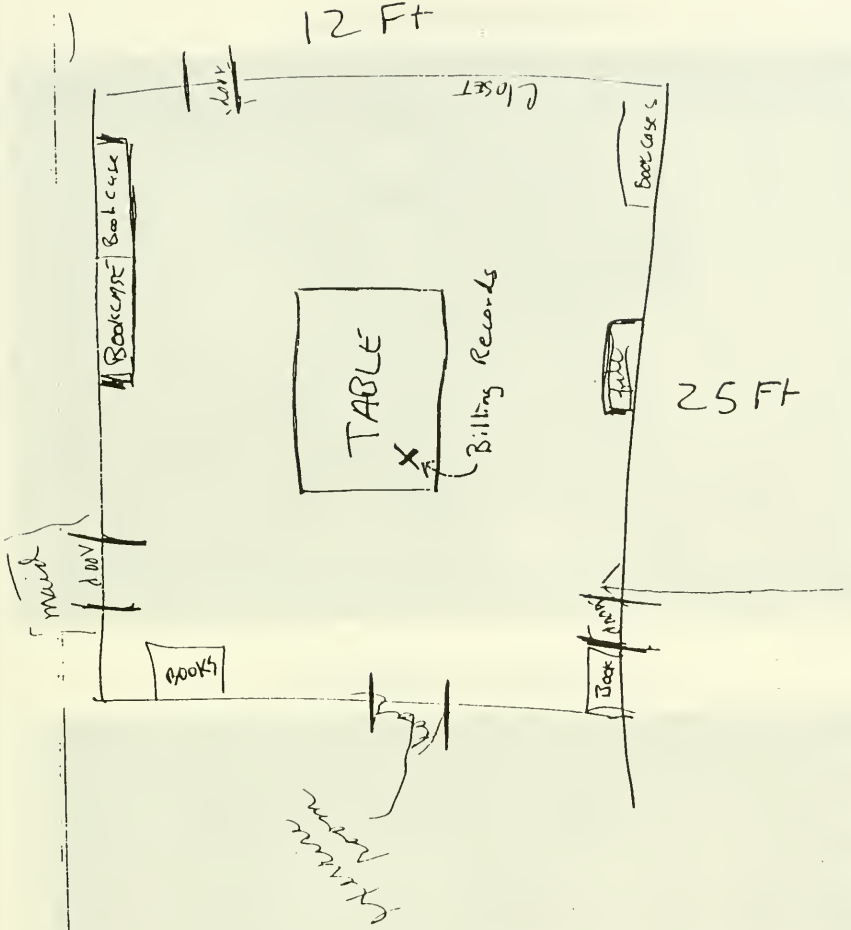
15 CAROLYN C. HUBER
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

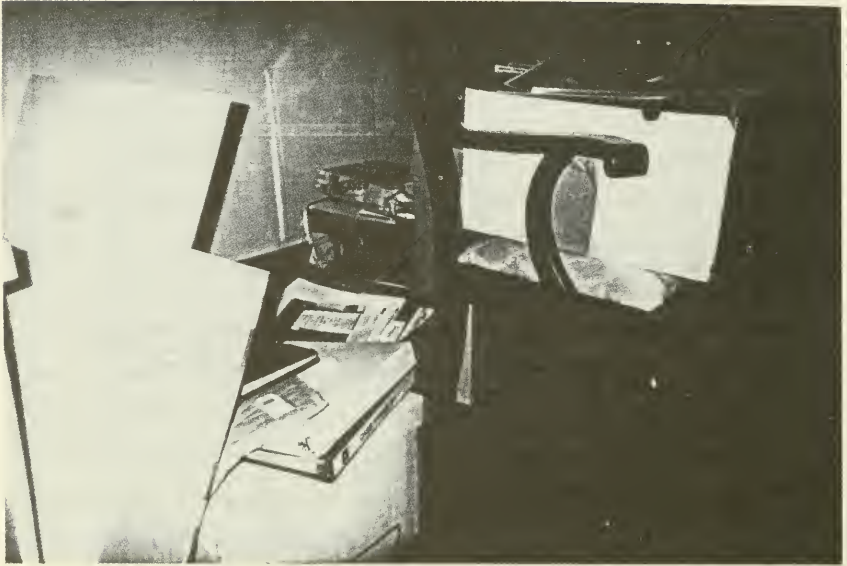
Brenda Smonskey
Notary Public in and for the
District of Columbia

My Commission Expires

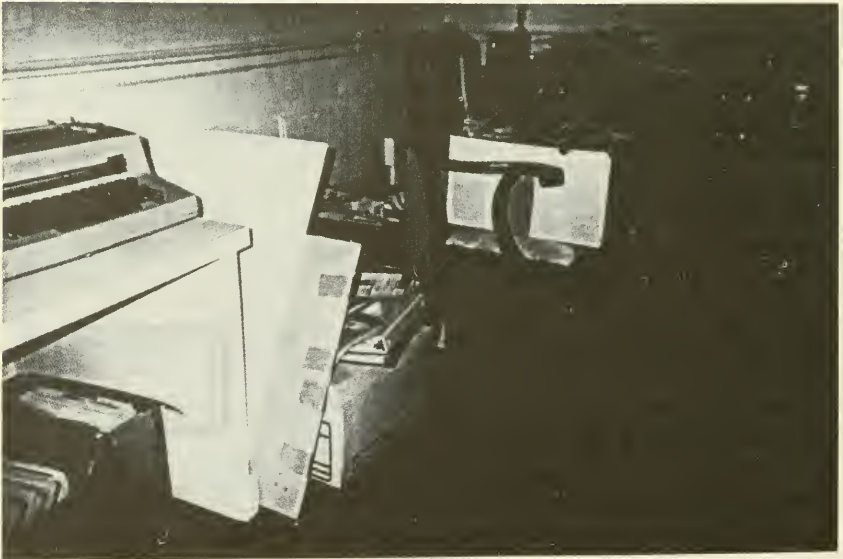
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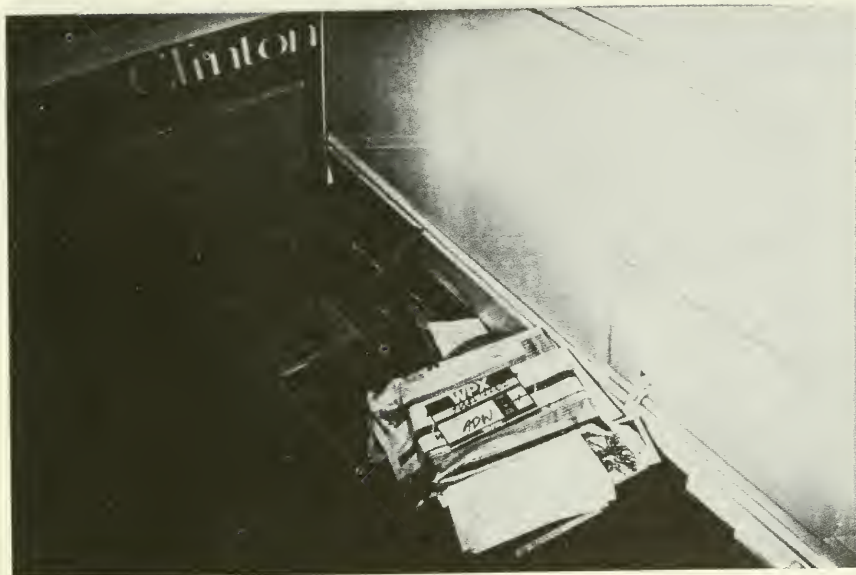
HUBER DEPOSITION EXHIBIT 2



HUBER DEPOSITION EXHIBIT 3



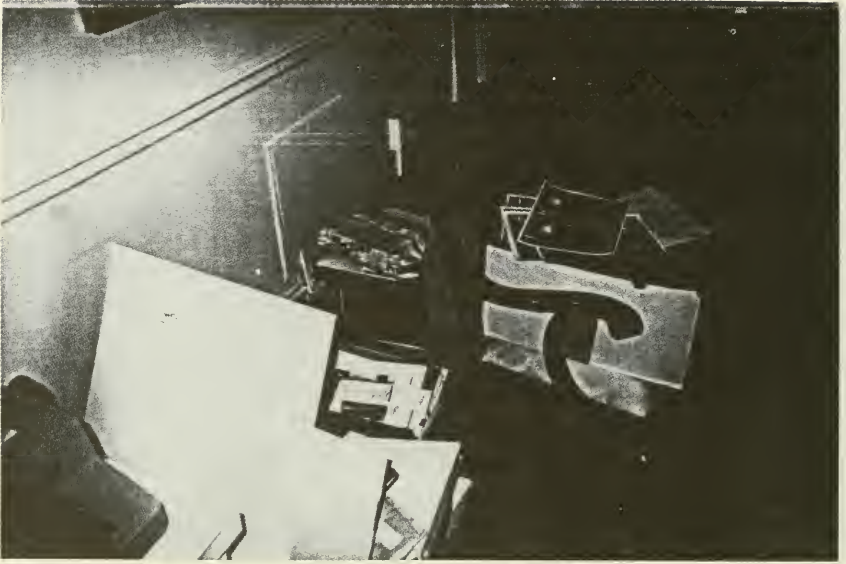
HUBER DEPOSITION EXHIBIT 4



HUBER DEPOSITION EXHIBIT 5



HUBER DEPOSITION EXHIBIT 6



HUBER DEPOSITION EXHIBIT 7



HUBER DEPOSITION EXHIBIT 8



**DEPOSITION OF TREECA J. DYER
IN RE: S. RES. 120**

THURSDAY, JANUARY 18, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of TREECA J. DYER, called for examination pursuant to notice of deposition, at 10:40 a.m. in Room 640-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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1 P R O C E E D I N G S

2 MR. GICALE: Ms. Dyer, we're putting this
3 on the record. Do you consent to having your
4 deposition taken over the phone and being sworn over
5 the phone by the stenographer?

6 MS. DYER: I do.

7 Whereupon,

8 TREECA J. DYER

9 was called as a witness and, having first been duly
10 sworn, was examined and testified as follows:

11 E X A M I N A T I O N

12 BY MR. GICALE:

13 Q Could you please state your name for the
14 record?

15 A My name is Treeca, middle initial J., Dyer,
16 D-y-e-r. And the first name is spelled T-r-e-e-c-a.

17
18
19 Q And what is your present business address?

20 A My present business address is 523 South
21 Louisiana Street, Suite 550, Little Rock, Arkansas
22 72201.

1
2
3
4 Q And you're an attorney; correct?

5 A I am an attorney.

6 Q And are you practicing on your own or in
7 association with someone else?

8 A I am a sole practitioner. I have a
9 professional association which is an Arkansas
10 professional corporation. I'm a PA, and I have just
11 myself as a full-time employee.

12 Q And what type of practice are you presently
13 engaged in?

14 A I have a general practice of law. I have a
15 predominantly domestic relations, family law, and
16 some discrimination law that I do, but I have other
17 things that I do in a general practice.

18 Q How long have you been in general practice?

19 A I started my own practice in August of
20 1994.

21 Q And what did you do prior to that?

22 A Prior to that I was staff attorney for the

1 Arkansas Highway and Transportation Department.

2 Q For what period of time?

3 A I began work there in October of 1989 and
4 left there at the end of June, 1st of July of 1994.

5 Q And where -- and you were a staff attorney
6 at all times when you were in that department?

7 A Yes.

8 Q Who was your supervisor there?

9 A My supervisor there was Robert Wilson.

10 Q And prior to serving as a staff attorney at
11 State Highway Department, where were you employed?

12 A I was employed by the Alcohol Beverage
13 Control Division, the administration section of the
14 ABC, and I was a staff attorney there as well.

15 Q What period of time?

16 A I began work there at the end of November
17 of 1981 and worked there until about the middle of
18 October of 1989.

19 Q Previously you said you went to the highway
20 department in August of '89?

21 A No, October of '89.

22 Q October of '89. So you were at the highway

6

1 department from October of '89 to July of '94?

2 A That's correct.

3 Q And you were with the Alcohol Beverage
4 Control Board from November '81 to October '89?

5 A That's correct.

6 Q And where were you prior to the Alcoholic
7 Beverage Control Board?

8 A Prior to that, I was completing school and
9 studying for the bar exam. For a short period of
10 time in early 1981, I was employed by a state
11 senator, Jim Holstead, as a legislative aide during
12 the 1981 session.

13 Q But prior to that, in '80, you were in law
14 school?

15 A Well, I was in school. I was employed by
16 the Arkansas Department of Human Services from March
17 of 1975 to June of 1977 --

18 Q To June of what?

19 A Department of Human Services.

20 Q Yes, what period of time was that?

21 A Oh, March of 1975 to June of 1979.

22 Q You were working full-time there while you

1 were going to law school?

2 A Yes. I started law school in the fall of
3 '77 as a night student.

4 Q When did you graduate from college?

5 A I graduated from college in May of 1973.

6 Q And where did you work after that?

7 A I went to graduate school. I worked for
8 the University of Arkansas as a graduate assistant.
9 I taught Spanish and worked on a degree of
10 comparative literature. I graduated from the
11 University with a master's in comparative literature
12 in January of 1975.

13 Q Now, when you were at the Alcoholic
14 Beverage Control Board, who did you report to?

15 A When I began work there, I reported to
16 Charles Singleton who was the director.
17 Mr. Singleton subsequently left that position as
18 director and Robert Moore took that position, and I
19 reported to him then.

20 Q When did that occur?

21 A I don't remember. I don't recall when
22 Mr. Singleton resigned.

1 Q Now, in preparation for today's --

2 A Let me back up.

3 Q Go ahead.

4 A I may be able to give you an approximate
5 date.

6 Q Okay.

7 A Maybe 1985-86, something along -- '85
8 or '86.

9 Q In preparation for your testimony today,
10 did you review any documents or have any discussions
11 with anyone?

12 A Yes, I went to the Alcohol Beverage Control
13 Division and pulled the file that was prepared when
14 we presented regulations for adoption to the Alcohol
15 Beverage Control Board in late 1984, early 1985.

16 Q Did you review any records other than those
17 records?

18 A No, I just reviewed that file.

19 Q Okay. And did you have any discussions
20 with anybody with respect to the substance of your
21 testimony today?

22 A I called and asked if the file was still

1 available and talked to Marilyn Hawley there,
2 H-a-w-l-e-y. Ms. Hawley told me that the file was
3 available and that I could come and look at it any
4 time I wanted to. And so I went, made arrangements
5 to go and looked at it, first week in January.

6 Q Now, Ms. Dyer, this deposition is being
7 conducted pursuant to Senate Resolution 120. The
8 resolution establishes a special committee
9 administered by the Banking Committee to conduct an
10 investigation involving Whitewater Development
11 Corporation, Madison Guaranty Savings & Loan
12 Association, Capital Management Services,
13 Incorporated, the Arkansas Development Finance
14 Authority and other related matters.

15 Section 1(b)(3)(A) and (B) of Senate
16 Resolution 120 authorizes investigation and public
17 hearings into, A, the operation, solvency and
18 regulation of Madison Guaranty Savings & Loan
19 Association and any subsidiary, affiliate or other
20 entity owned or controlled by Madison Guaranty
21 Savings & Loan Association; B, the activities,
22 investments and tax liability of Whitewater

10

1 Development Corporation as related to the Whitewater
2 Development Corporation or its officers, directors
3 and shareholders. This will be the focus of today's
4 deposition.

5 You were requested to testify earlier this
6 week. This deposition is being taken in advance of
7 public hearings which will continue to occur in
8 January and possibly February of this year. It's
9 possible that you could testify at such a hearing.

10 We are asking a series of questions. You
11 of course have agreed to testify under oath. If you
12 don't understand any questions, let us know. The
13 stenographer is preparing a record of questions and
14 answers. The deposition will be treated as committee
15 confidential until a commencement of the hearings.

16 Prior to the hearings, you will receive a
17 letter from the Committee telling you that you may
18 come to the Senate to review a transcript of your
19 deposition and make note of any corrections for
20 transcription on an errata sheet.

21 I note that you are -- this deposition is
22 being taken over the phone and that you are located

1 in Little Rock, and we can make some arrangements to
2 have you review that transcript there so that you
3 don't have to come to the Senate.

4 A I would appreciate that.

5 Q If you are called to testify at public
6 hearing you will be provided a copy of your
7 deposition transcript four days in advance of your
8 testimony. You may be represented by counsel and I
9 note that you are appearing here today by yourself.

10 Objection to the form of questions will be
11 noted for the record. Counsel may object on grounds
12 of privilege or relevance. The Committee Chairman
13 may rule on objections where the witness refuses to
14 answer a question.

15 Do you have any questions at this point?

16 A No, I do not.

17 Q Ms. Dyer, on February 20th, 1985, the
18 Arkansas Alcoholic Beverage Control Board promulgated
19 a regulation providing, in part, that any winery,
20 brewery, distillery or rectifying plant operating
21 within the state of Arkansas and licensed by the
22 Alcoholic Beverage Control Division was authorized to

12

1 maintain a tasting room on their licensed premises
2 where samples of their products could be given to
3 persons touring such facilities. Are you familiar
4 with that regulation?

5 A I am.

6 Q Were you involved with the promulgation of
7 that regulation?

8 A Yes, I was.

9 Q Can you tell us what your involvement was
10 with respect to the promulgation of that regulation?

11 A As part of my duties as the ABC staff
12 attorney, I was responsible for the regulation
13 adoption process. It regularly entailed the director
14 providing to me drafts of regulations or notes about
15 regulations we wanted to adopt. We did regulation
16 adoption on an irregular regular basis, if that makes
17 any sense. Rather than adopt regulations one at a
18 time, we would batch them together, so to speak, and
19 then have several regulations adopted at the same
20 time. I don't believe there was a year that went by
21 when we didn't adopt regulations. And sometimes we
22 would do it twice or three times within a year.

1 My job was to collect the suggestions for
2 regulations, to either write them or edit them after
3 they had been written by other parties and put them
4 in the same form as the remainder of our regulations,
5 to assign numbers to them, to make sure that the
6 draft of the regulations were ready to present to the
7 board for their review, to make sure that notice went
8 into the Arkansas Gazette at that time as required by
9 the Administrative Procedures Act and, in all other
10 respects, to comply with the procedures outlined by
11 the Arkansas Administrative Procedure Act for the
12 adoption of regulations by a state agency.

13 Q Do you know how this regulation came to
14 your attention or who requested that you draft this
15 regulation?

16 A This regulation, if I recall correctly,
17 came to me from the director who at that time was
18 Charles Singleton, I guess.

19 Q Now, did it come in the form of a note or a
20 memorandum or did it come in the -- or was there some
21 discussion about it and who had an interest in it?

22 A I think there was discussion about the

1 regulation, and then I think maybe Mr. Singleton
2 drafted the regulation to begin with. Mr. Bennett --
3 Don Bennett, the other staff attorney, may have had
4 some involvement in drafting the wording of that
5 particular regulation. I don't have any specific
6 recollection of anything beyond that with this
7 regulation.

8 Q So you did not draft it, it was drafted by
9 either Singleton or Bennett?

10 A I don't recall drafting it. If I did draft
11 it, it was based on information that was provided to
12 me by Mr. Singleton as to what should be in that
13 regulation.

14 Q Did Singleton indicate to you why he wanted
15 such a regulation drafted and whether -- who if
16 anyone had expressed an interest in the regulation?

17 A No, I don't recall. I just honestly don't
18 recall any conversation. Mr. Singleton did not
19 always share with us who was interested in particular
20 issues.

21 Q Well, did he indicate why he felt the
22 regulation should be drafted and promulgated?

1 A Well, I remember at that time there was a
2 company that was trying to get into business, Riley's
3 Red Lion Beer, and they were in and out of the office
4 quite a bit, talking to various staff people on how
5 to get established as a brewery. And I think they
6 visited with Mr. Singleton and that's -- the other
7 thing I know is that there's a winery in Altus,
8 Arkansas operated by Wiederkehr, the Wiederkehr
9 family, and they had a tasting room. And I think
10 they had, they were interested in this regulation
11 because they wanted to make sure that it did not
12 change or affect their ability to provide samples on
13 the premises.

14 And I guess in that light, while the Red
15 Lion Beer people were asking about how to get
16 started, they also inquired about how to have the
17 same tasting privileges that the winery did.

18 Q So that prior to this time --

19 A Including -- I do remember this. I
20 remember including rectifiers in it, not because the
21 rectifiers asked for it, but just so that we would
22 treat everybody equally. Because there was a Hiram

1 Walker plant in Fort Smith and I think they do or did
2 produce cordials, and I think that there was some
3 question about if we didn't include rectifiers in the
4 language, then we might omit somebody and not provide
5 equal protection.

6 Q Define "rectifier."

7 A Uh-huh.

8 Q What did you people view as a rectifier,
9 distillers and rectifiers?

10 A Distillers and rectifiers would be what
11 they'd do over at the Hiram Walker plant where they
12 produced cordials from alcohol and then various
13 fruits and berries.

14 Q Now, then I take it that this regulation --
15 that prior to this regulation, wineries were allowed
16 tasting rooms but beer breweries were not?

17 A Oh gosh, I'd have to go back to the
18 regulations that existed before.

19 Q Well, the reason I say that is that you
20 indicated that the Wiederkehr family was interested
21 in this because they already had a tasting room.

22 A That's my recollection, that they already

1 had tasting privileges or what was considered to be a
2 tasting privilege on the premises there.

3 Q So that is it your belief, that they
4 already had a regulation that allowed them to do
5 that, and that this regulation expanded this
6 privilege to breweries distillers and rectifying
7 plants?

8 A Yes, that's the best of my recollection.
9 Gee, I wish I had my old regulation books with me,
10 because I did keep track at one point of all the
11 regulation changes as they were made, and we noted on
12 each regulation when it was modified or amended and
13 most of the most recent adoption dates.

14 Q But the best of your recollection at this
15 point is that this regulation expanded the group of
16 businesses that could have tasting rooms from
17 wineries to wineries, breweries, distillers and
18 rectifying plants?

19 A Yes, that's the best of my recollection.
20 If you'll -- well --

21 Q Do you want us to hold for one minute?

22 A Let me put you on speakerphone and I'll

1 shut the door on my office so nobody will hear. And
2 let me go to the bookcase because I think I might
3 have that.

4 MR. GICALE: We can adjourn for a second.
5 Off the record.

6 (Discussion off the record.)

7 BY MR. GICALE:

8 Q Ms. Dyer, since recessing, you've had an
9 opportunity to go back and look at some books with
10 respect to legislations?

11 A Right.

12 Q And what have you found?

13 A I have found that in a regulation book that
14 we published in late '85 or early '86, they printed
15 section 6.2 which is the tasting. It does not appear
16 that that was an amended regulation. It looks like,
17 from what I see and the way I know we did business,
18 that that was a new regulation when we adopted 6.2
19 and not the amendment of an old regulation. Prior to
20 that time there was not a section 6.2 of the
21 regulations, and I think the previous regulation that
22 governed samples did not specifically provide for

1 tasting rooms. Section 2.28 subsection 6 prohibited
2 manufacturers or wholesalers from giving samples to
3 persons, with some exceptions. There was a provision
4 for sampling parties with prior approval, but that's
5 about it.

6 Q And those sampling -- so there was a
7 general prohibition with the only exception being
8 sampling parties?

9 A Parties.

10 Q With prior approval?

11 A That's correct.

12 Q And I assume that would be applicable to
13 wineries, breweries, distilleries and rectifying
14 plants?

15 A Yes, that would have been applicable to all
16 the manufacturers of any kind.

17 Q Now again, earlier you testified that the
18 Wiederkehr people had a tasting room?

19 A Yeah. I think that's an -- I think that's
20 a mistake in recollection on my part. If they had a
21 tasting room -- legal.

22 Q Pardon me?

20

1 A If they had a tasting room, I don't know
2 that it was legal at that point until this regulation
3 was adopted.

4 Q Now, do you recall who from the Lion
5 business was coming into the office to talk to
6 Singleton, was it William Lyon?

7 A I don't know if Mr. Lyon was around all
8 that much. I know Rich Cosgrove was around a lot.

9 Q And Rich Cosgrove worked for the Lion
10 Brewery?

11 A I believe that he either worked for
12 Riley-Lyon or he was going to be their distributor
13 once they made the product.

14 MR. PORTNOY: Could you spell his name for
15 us please.

16 THE WITNESS: Rich, R-i-c-h,
17 C-o-s-g-r-o-v-e.

18 MR. PORTNOY: As long as I've questioned
19 him on the subject, could you spell Wiederkehr.

20 THE WITNESS: W-e-i-d-e-r-k-h-e-r.

21 MR. PORTNOY: We won't hold you to that
22 one.

1 THE WITNESS: I think that's real close.

2 MR. GICALE: I note on one of the exhibits
3 at the Alcohol Beverage Control office, the name is
4 spelled W-i-e-d-e-r-k-e-h-r.

5 THE WITNESS: That's probably right. I
6 never could remember exactly how to spell it. I got
7 it close.

8 BY MR. GICALE:

9 Q Do you know whether or not Mr. Lyon had a
10 brewery in operation, and whether or not they were
11 trying to obtain authorization for a brew pub on
12 that, at that brewery, at the time there was a
13 request for this regulation?

14 A It's my recollection that there was a
15 brewery starting. I don't know how much they were
16 manufacturing or brewing at that point. I didn't
17 look at the file that granted the permit to
18 Riley-Lyon for the brewery, but they were in the
19 process of getting the permit for the brewery. I
20 know that they did produce some product. I just
21 don't remember that it sold very well or that it
22 lasted very long.

22

1 Q Do you know if they produced the product
2 before this regulation was promulgated?

3 A I don't know.

4 Q So you remember Mr. Cosgrove coming to see
5 Mr. Singleton. Were there meetings and did you
6 attend those meetings to discuss this regulation?

7 A I didn't attend those meetings. There were
8 meetings -- or if you want to call them meetings, I
9 don't know how much prearrangement there was, but I
10 know that there was -- there were discussions. I
11 just was not a part of them.

12 Q How did you know that there were
13 discussions?

14 A I saw Mr. Cosgrove go back to
15 Mr. Singleton's office, because he had to pass my
16 office first.

17 Q Okay. Did Mr. Singleton tell you about the
18 conversations he had with Cosgrove and why
19 Cosgrove -- what Cosgrove wanted?

20 A No.

21 Q Was there ever a request for something more
22 than a tasting room, and that is to say a regulation

1 allowing -- regulation or law allowing both the
2 manufacture and sale of these beverages on premises,
3 for instance the use of a brew pub?

4 A Yes, I remember those discussions. And I
5 think at the time the most I heard about those was
6 from Mr. Bennett, in discussions about whether or not
7 that could take place under existing laws. And I
8 think the three-tier system in Arkansas prohibited
9 that because a manufacturer could not also occupy the
10 position of a retailer. And if there was a brewery
11 on the premises of the manufacturer and it was not
12 given away as a sample, then it would have to be
13 sold, and that would make the manufacturer occupy two
14 tiers of the system, which was contrary to state law.

15 Q Now, were you aware of any attempts to
16 change state law in 1984 or 1985 to allow for this
17 type of manufacture and sale on premises, for
18 consumption on premises and to -- for retail to
19 consumers off premises? Were you aware of any
20 attempts to change this tier system to allow for this
21 type of business activity?

22 A No, I was not. Don Bennett dealt primarily

1 with the manufacturers, and if there would have been
2 some move afoot to change the statute, he would have
3 more than likely been involved in those discussions.

4 Q Well, was this regulation for the tasting
5 room in any way related to attempts at changing
6 legislation on the manufacture and sale on
7 premises -- and retail sale, if you know?

8 A I don't know.

9 Q For instance, was this bill, regulation
10 some kind of compromise or was it an offshoot in any
11 way of those discussions, if you know?

12 A I know that this bill was the best that the
13 manufacturer could do to provide samples and provide
14 any kind of beverage to people on tours, people who
15 come to the brewery or manufacturing place. It was a
16 compromise because of the three-tier system.

17 Q Now, but when you say it was a compromise,
18 I guess --

19 A I think they wanted more, but I don't have
20 any specific recollection other than just the general
21 impression that they wanted more and they knew that
22 this was as much as they could get and so that's what

1 they were willing to settle for.

2 Q When you say they wanted more, did

3 Cosgrove --

4 A Sale on premises.

5 Q Pardon me?

6 A The ability to sell their product on
7 premises.

8 Q Whether in a restaurant or just at retail?

9 A Right.

10 Q And do you recall whether Singleton
11 indicated to you that Cosgrove was pushing for the
12 ability to do this by virtue of a regulation as
13 opposed to a change in the law?

14 A I don't recall Mr. Singleton ever saying
15 anything like that to me. As I told you,
16 Mr. Singleton was pretty closed-mouthed. Pretty
17 tight lipped about who wanted what.

18 Q But you say it was a compromise. That
19 seems to suggest that somebody did want something
20 more and you may have had some indication that they
21 did want that.

22 A I think that that came from discussions

26

1 with Mr. Bennett.

2 Q So Bennett may have told you that the
3 manufacturers wanted, by virtue of some regulation,
4 the ability to manufacture and sell beer, wine or
5 distilled spirits?

6 A Yes.

7 My discussions would probably have been
8 more with Mr. Bennett as we were working through
9 these regulations.

10 Q And who was it that concluded that the --
11 who was it that concluded at the ABC board that the
12 manufacturers could not get that type of regulation,
13 who made the decision that they couldn't get that?

14 A Well, Mr. Singleton ultimately made that
15 decision. But I think Mr. Bennett was involved in
16 providing him counsel on the issue of the three-tier
17 system, and how this would violate the three-tier
18 system and would be in excess of the statutory
19 authority of the agency to adopt that regulation if
20 it went any farther than the tasting rooms.

21 Q So there was some conclusion that the law
22 would allow for a regulation that allowed tasting

1 rooms, but that the law as it existed at that point
2 in time would not allow for a regulation that would
3 allow for the manufacture and retail sale?

4 A That's correct, right. You could give it
5 away as a sample on premises, but you couldn't sell
6 it if you were a manufacturer.

7 Q And the only way you could promulgate a
8 regulation that allowed you to manufacture and sell
9 it would be to have -- change the law that
10 presently --

11 A Certainly.

12 Q -- that then existed?

13 A You would have had to change the way
14 that -- you would have to change the entire
15 distribution system in Arkansas because, as I said,
16 before it was a three-tier system, and the tiers were
17 specifically prohibited from being commingled.
18 Manufacturers could not have retail outlets.
19 Manufacturers could not own distributorships and vice
20 versa.

21 Q Now Mr. Bennett's role, what was his job at
22 that point?

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1 A He was staff attorney also.

2 Q And, again, he primarily dealt with the
3 manufacturers?

4 A Yes. Many of his duties revolved around
5 brand registration and providing advice to the
6 manufacturers and distributors, as brands would be
7 registered in the state of Arkansas, as promotions
8 would be set up by manufacturers and distributors.
9 So he dealt on a very close basis with the
10 distributors and, of course, the manufacturers were
11 from time to time in contact with him as they were
12 setting up different promotions.

13 Q Do you know where Mr. Bennett is now?

14 A He's staff attorney at the ABC.

15 Q He's still there. Okay. So Bennett
16 indicated that these people wanted more, but there
17 was a determination that the law would not provide
18 for this kind of regulation. And it's your testimony
19 that you do not know whether or not any effort was
20 made to change the law which would allow a
21 regulation, which would in turn allow them to both
22 manufacture and sell at retail --

1 A I don't recall.

2 Q -- these beverages?

3 A In the way of discussion about changing the
4 statute, no, I'm sorry.

5 Q When did you first start to discuss the
6 change in this regulation with either Singleton or
7 Bennett, was it in '84 or '85?

8 A It had to be in '84 because the way that
9 the process worked. We presented draft regulations
10 to the board at their meeting on January 15th, 1985,
11 which means that we had formalized the regulations to
12 a point where we could at least provide them with
13 something in the way of a draft by that time. Which
14 means we'd worked on them at least in December and
15 probably earlier than that, probably throughout the
16 fall of 1984. We adopted regulations in July of '84
17 and then in February of '85. So I would assume that
18 any time after July, after we adopted them in July,
19 we began to collect the next set of issues that would
20 be dealt with in regulations.

21 Q Using that time period as a reference, do
22 you recall whether or not Cosgrove or anybody from

30

1 the Lion Companies or the Wiederkehr people came in
2 during this summer of 1984 or fall of '84 to talk to
3 Singleton about this issue?

4 A I don't have any specific independent
5 recollection of them being there, no.

6 Q Do you recall any input from the governor's
7 office with respect to this regulation?

8 A No, I don't. Mr. Singleton would have been
9 the one communicating with the governor's office.

10 Q Who would have been the contact in the
11 governor's office with the ABC board? Was there a
12 person from the governor's staff that would have been
13 a liaison to the ABC board and the staff?

14 A Usually it was Betsey Wright.

15 Q Do you recall whether or not James McDougal
16 was involved in this regulation, this request to
17 change the regulation?

18 A No, I don't recall his name at all.

19 Q Do you recall whether or not the Rose Law
20 Firm or anyone from that firm was involved in this
21 request to change the regulation?

22 A Not to my knowledge.

1 Q Do you recall whether Rick Donovan or
2 Hillary Clinton or Webster Hubbell or anyone from
3 that firm was involved with respect to this
4 regulation?

5 A Not to my knowledge. I had no contact with
6 any of those people.

7 Q When Cosgrove came in to talk about the
8 regulation and the brewery that he was representing,
9 do you know what the location of that brewery was?

10 A My recollection is that it was going to be
11 someplace in the downtown area.

12 MR. GICALE: Off the record for a minute.

13 (Discussion off the record.)

14 BY MR. GICALE:

15 Q You are talking about downtown Little Rock;
16 correct?

17 A Yes, I'm sorry, the downtown Little Rock
18 area. I vaguely remember discussions with Don
19 Bennett about where are they going to put this
20 thing. And I think he told me that they were going
21 to take an old building and renovate it and make it
22 the brewery, and that was downtown.

1 Q Do you know whether or not the Lion people
2 had a brewery and were looking to open up another
3 one?

4 A No, I don't know anything about that.

5 Q Are you familiar with the property that
6 came to be known as, or development that came to be
7 known as Castle Grande?

8 A Only barely. I know a little bit about
9 it. I don't think the two are connected. I don't
10 remember Castle Grande being connected with Red Lion
11 Beer.

12 Q When you said that your recollection was
13 the brewery would be located in downtown Little Rock,
14 where was Castle Grande located with respect to that?

15 A I was under the assumption that Castle
16 Grande was south of Little Rock.

17 Q Where would 145th Street be?

18 A 145th Street would be several miles. At
19 least two or three miles south of downtown Little
20 Rock. As I recall, Castle Grande was on the way
21 towards Sheridan, down highway 65 toward Pine Bluff
22 and Sheridan, but that's --

1 Q All right. So the brewery that was
2 discussed as either being in existence or to be in
3 existence was one that you believe was going to be
4 placed in downtown Little Rock as opposed to some
5 place like Castle Grande South?

6 A That's my recollection.

7 Q Of Little Rock; correct?

8 A Yes, that is my recollection, that the
9 brewery was going to be placed in a downtown
10 location.

11 Q Did you ever hear of a proposal to develop
12 a brewery on the Castle Grande property?

13 A No.

14 Q Did you know James McDougal?

15 A No.

16 Q Did you know Seth Ward?

17 A No.

18 Q Did Seth Ward ever approach either
19 Singleton or Bennett or someone on the staff about
20 this change in the regulation that eventually
21 occurred allowing for a tasting room?

22 A I have no idea.

1 Q Were you aware of whether Jim McDougal had
2 talked to the governor's office, specifically Betsey
3 Wright, about some legislation changing the law, the
4 then law in Arkansas which prohibited manufacturers
5 from selling alcoholic beverages retail?

6 A I have no knowledge of that whatsoever.

7 MR. PORTNOY: Just for the record, I
8 believe the testimony was that the witness has no
9 knowledge of any efforts to change the law, period.

10 MR. GICALE: Right.

11 BY MR. GICALE:

12 Q I believe that was your testimony; correct?

13 A That is my testimony. I don't know who
14 talked to who about changes in statutes.

15 Q What you do know is that they wanted
16 something more than a tasting room, but you don't
17 know -- but -- and what you also know is that the
18 then law would not -- somebody came to the conclusio
19 that the then law would not allow a regulation for
20 this?

21 A Yes.

22 MR. PORTNOY: Just for the record, I

1 believe the witness said she didn't have firsthand
2 knowledge of this, but rather she got that impression
3 from her discussions with Mr. Bennett.

4 BY MR. GICALE:

5 Q Is that correct?

6 A That's correct. It was my understanding
7 from discussions around the office that more than a
8 tasting room was wanted, but that this would be
9 acceptable in light of the three-tier system and the
10 prohibition on manufacturers or distributors also
11 being involved in retail sales.

12 Q Did you know Senator James Scott?

13 A I have talked to Senator Scott on the phone
14 from time to time as he would call and inquire about
15 business for constituents and things like that.
16 Other than that, no, I don't know senator Scott.

17 Q Do you know whether or not he was involved
18 in a bill to change the three-tier system law?

19 A No, I don't know anything about that.

20 Q Do you know whether or not the township
21 where the Castle Grande development was was a wet or
22 dry township, or whether there was some discussion

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1 about that at the board?

2 A I don't know any -- I don't recall any
3 discussion about that. If Castle Grande is where I
4 think it is I believe it's dry because I believe
5 Grant County is dry. If it's in south Pulaski County
6 then it's wet.

7 Q What about if I told you that the
8 development was in a combination of townships, Union
9 township which had been merged with Big Rock
10 township?

11 A Oh. Well, yes, there was considerable
12 discussion about whether or not Union and Big Rock
13 were wet or dry. I remember that.

14 Q When did that discussion occur and who was
15 involved in that discussion?

16 A That came about because there was a liquor
17 store we discussed -- there was some research done on
18 wet/dry elections, Mr. Bennett discovered that an
19 area previously thought to be wet was dry and a
20 liquor store existed in that dry area.

21 Q Who was the owner of that liquor store, if
22 you recall?

1 A Oh, I don't remember. I don't remember at
2 all.

3 Q When did that issue come up? Was that
4 about the same time as this regulation?

5 A I think it was before.

6 Q In 1984 or '83?

7 A For some reason '83, I remember that there
8 was considerable consternation when we discovered
9 that there was a liquor store in a dry area.

10 Q What was done to remedy that, if anything?
11 Was there an ultimate conclusion that it was dry?

12 A I think so. I think that liquor store -- I
13 think there may have been two liquor stores and they
14 were allowed to transfer out of that area into wet
15 areas.

16 Q Do you know -- and you're talking about
17 Union township and Big Rock township; correct?

18 A Yes, those are in northern Pulaski County.
19 It's my recollection they're north of North Little
20 Rock or adjacent to North Little Rock.

21 Q Now, would they be in the area where you
22 believe the Castle Grande development was?

1 A No, I thought Castle Grande was south of
2 Little Rock.

3 Q Do you recall any discussion in '84,
4 '85, '86 about placing a brewery on the Castle
5 Grande development?

6 A No, I don't recall anything like that.

7 Q Do you recall whether or not Jim McDougal
8 or anyone from the Rose Law Firm including Rick
9 Donovan came to the department to discuss whether or
10 not a brewery would be possible on that development?

11 A No, I don't recall any of that. I don't
12 know if they did or not. Most likely since
13 Mr. Bennett handled most of the dealings with
14 manufacturers and distributors, they might have
15 approached him first or they could have approached
16 Mr. Singleton first.

17 Q But you didn't have anything to do with it?

18 A Not that I -- no, no, I did not.

19 Q In '84, '85 or '86?

20 A Not to the best of my recollection, no.

21 MR. PORTNOY: Asked and answered.

22 BY MR. GICALE:

1 Q Do you know whether or not anyone from the
2 Mitchell law firm and specifically Marcella Taylor
3 attempted to address a wet/dry issue with respect to
4 the development at Castle Grande?

5 MR. PORTNOY: I'm going to object. She's
6 testified four times that she has no knowledge of
7 anybody discussing the wet/dry issue with respect to
8 Castle Grande.

9 MR. GICALE: Perhaps this name might
10 refresh her recollection.

11 BY MR. GICALE:

12 Q Do you recall, Ms. Dyer?

13 A No, I don't recall any discussion with
14 Ms. Taylor, Marcella Taylor.

15 Q Now going back to the regulation, the
16 process involved some public hearings or at least a
17 public hearing; correct?

18 A That's correct.

19 Q And in reviewing the documentation from the
20 alcoholic beverage control division, there was a list
21 of people who attended the public hearing, and there
22 was a signature of an E.N. Ward of Saline County. Do

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1 you know, were you at that hearing?

2 A Yes.

3 Q Do you know who the E.N. Ward was that
4 signed that?

5 A No.

6 Q And, again, did you know who Seth Ward was?

7 A No.

8 Q There's also a listing for a Rich
9 Cosgrove. He was at that hearing?

10 A Yes.

11 Q Was Mr. Lyon at the hearing?

12 A I don't believe so. If he was, he didn't
13 sign in and generally we got everybody signed in if
14 they showed up.

15 Q How long did the hearing last, if you
16 recall?

17 A I don't believe it was very long because I
18 looked over all the regulations that we adopted and
19 there was very little discussion about any of them.

20 Q The records reflect seven people signing
21 this list, would that be -- does that accurately
22 refresh your recollection as to the number of people

1 there?

2 A That sounds about right.

3 Q Was there any discussion amongst these
4 people about the regulation?

5 A About the tasting room regulation?

6 Q Yes.

7 A I looked at my notes and I didn't see
8 anything that indicated that there was any
9 discussion. It was apparently a noncontroversial
10 regulation.

11 Q So was this more or less a pro forma
12 hearing at this stage? I mean, it had to be done,
13 but there was very little --

14 A There was no one present speaking in
15 opposition to it. The regulation was announced,
16 discussed as to what the substance of it was, what it
17 would do in an open hearing pursuant to the
18 administrative procedure act and that was it. I
19 mean, we were doing what the law required us to do
20 and that was to hold a public hearing after notice
21 and opportunity for comment and we received no
22 comments on this one.

1 Q Who conducted the hearing, was it you?

2 A Generally, the director and I would do the
3 hearing. I would announce the regulation, summarize
4 it, and then the director would explain why the
5 regulation had been promulgated and answer any
6 questions that members of the board or the public
7 might have.

8 Q But the board members were present as well?

9 A Oh, certainly.

10 Q They would have to vote on that?

11 A They would have to vote, yes.

12 Q Who were the members of the board at that
13 time, if you recall?

14 A All right. We had Dr. Carl Hyman, Jim
15 Walters, Guy Newcomb, Ed -- I think at that time --
16 gosh, I think Ed from Arkansas was a member of the
17 board at that time. I can't remember.

18 Q I'm sorry, who was that again? You don't
19 remember the other name?

20 A Ed Jones. I should remember. Ron Harrod
21 was also a member of the board --

22 Q How do you spell the last name?

1 A -- or wasn't.
2 Q I'm sorry, how do you spell the last name?
3 A Harrod, H-a-r-r-o-d. No, I think he'd
4 already moved over to the highway commission at that
5 time.
6 Q Was there anybody else that you recall?
7 A I can't remember if Joe Jones was on the
8 board at that time or not from Texarkana. And I
9 can't remember when F.E. Scott came on the board
10 either from --
11 Q What's that first name?
12 A F.E., two initials.
13 Q Were those all the board members you can
14 remember?
15 A There were only five members of the board.
16 Q Okay.
17 A And I know that Dr. Hyman, Mr. Walters and
18 Guy Newcomb were members at that time. Joe
19 Grosecoose may have been a member. I forget when
20 they went on and off the board but Marilyn Hawley
21 always kept a list of the board members and what
22 their terms were.

1 Q What reason did Mr. Singleton give that you
2 recall for promulgating the regulation at the
3 hearing?
4 A I don't remember.
5 Q What was the next thing that occurred after
6 the hearing and the vote -- I assume the board voted
7 and voted in favor of this regulation; correct?
8 A Board member Guy Newcomb made the motion to
9 adopt the regulation, it was seconded by Jim Walters
10 and there was a unanimous 5-0 vote to adopt it.
11 Q And then what occurred next?
12 A Once that was -- once that was completed,
13 then the next issue in the regulatory process was
14 review of the rule or the regulation by the
15 legislative council.
16 Q And how did that occur?
17 A There's a statute that requires all state
18 agencies to submit their regulations that they adopt
19 to the legislative council subcommittee on rules and
20 regulations to make sure that those regulations
21 conform to the legislative intent of the enabling
22 legislation of that particular agency.

1 And there were forms that you had to fill
2 out to provide to the legislative subcommittee
3 explaining the nature of the regulation, why it was
4 necessary to be adopted, what it would change, the
5 economic impact on the consumers, the public,
6 government of the regulation. Who you contacted, who
7 contacted you about the regulation, those kinds of
8 things.

9 Those forms were filled out on each
10 regulation that was adopted, a separate form for each
11 regulation, sent to the legislative council
12 subcommittee, those were reviewed and then on a
13 specific date Mr. Singleton went over and they asked
14 him any questions they might have had, I did not go,
15 I was not present, about any of the regulations that
16 were adopted and that was the end of the process.

17 Q And then the rule was ultimately
18 promulgated?

19 A Well, the rule was adopted and became
20 effective usually within 30 days of its adoption. It
21 was not reviewed by the legislative council until May
22 15th.

1 Q It was not reviewed by the legislative
2 council until when?

3 A May 15th.

4 Q May 15th?

5 A That's correct.

6 Q But by that time it was already in effect?

7 A Yes.

8 Q So actually the proposed -- I'm looking at
9 the questionnaire on proposed administrative rules,
10 and it says "proposed effective date of rule March
11 20th, 1985." And then the hearing date was February
12 20th, '85; correct? Do you recall seeing that
13 document?

14 A Do I recall seeing that document?

15 Q Yeah, in the file at the ABC?

16 A Yes, I did see that document.

17 Q So it was effective March 20th, '85?

18 A Yes.

19 (Discussion off the record.)

20 BY MR. GICALE:

21 Q Just to go back and clarify something on
22 the wet/dry issue.

1 A Yes.

2 Q Pulaski County, was that where the issue
3 arose?

4 A Yes.

5 Q And that's where the two liquor stores
6 were?

7 A Yes.

8 Q And that is located where with respect to
9 Little Rock?

10 A It's my recollection that the two townships
11 were merged at some point and one of the townships or
12 at least a portion of it had voted dry. And in the
13 process of merging and the documents getting
14 confused, it was assumed that that little pocket of
15 that was dry -- it was assumed that it was wet. And
16 as I recall that location, that geographical location
17 was in North Little Rock or just to the north of the
18 North Little Rock city limits if I recall correctly.

19 Q Now, did this issue come up with respect to
20 old Union township and then two townships, one called
21 Big Rock and one called Hill?

22 A Yes, I believe that's right. I think Big

1 Rock township I think that was the Little Rock. And
2 when they merged they became one large township for
3 all practical purposes and the lines got confused as
4 to where they had dried up certain areas.

5 Q Big Rock township was located south of the
6 river?

7 A I think that's right. And Union was north
8 of the river. And Hill was a part of or was adjacent
9 to or had been a part of Union.

10 Q And Hill was north of the river as well?

11 A I believe so, yes. You are asking me to go
12 back and recall things from many, many years ago.
13 Don Bennett did most of the work on that.

14 Q And you believe that would have occurred in
15 perhaps 1983?

16 A I think so. It seems like that happened
17 not too long after I got there, after I began working
18 there.

19 Q And you don't know whether or not the issue
20 came up again in '84, '85, or '86 with respect to
21 Castle Grande or a brewery on a Castle Grande
22 development or an IDC development?

1 A No, I don't know anything about that.

2 (Recess.)

3 BY MR. GICALE:

4 Q Okay we're back on the record. I just want
5 to just briefly summarize two things. One with
6 respect to any legislation allowing the manufacturers
7 to sell at retail at their manufacturing facilities,
8 you don't know anything about that?

9 A That's correct.

10 Q And with respect to any contacts the board
11 may have had in '84, '85, '86 with respect to the
12 wet/dry issue and putting a brewery on a Castle
13 Grande development or some IDC or Seth Ward property,
14 you don't know anything about that; is that correct?

15 A I don't know anything about that.

16 MR. GICALE: I don't believe I have
17 anything further at this point. Thank you.
18 Mr. Portnoy may have some questions.

19 EXAMINATION

20 BY MR. PORTNOY:

21 Q I have very few, Ms. Dyer. My name is Jim
22 Portnoy, I'm counsel for the Minority. Thank you for

1 taking the time to be with us this morning.

2 A You're welcome.

3 Q You testified that Rich Cosgrove was around
4 the office a fair bit?

5 A Yes.

6 Q Was that common? Was Mr. Cosgrove around
7 the office routinely throughout your tenure at the
8 ABC?

9 A No.

10 Q No, just with respect to particular issues?

11 A He was there quite a bit as they were
12 trying to get started, and then later on I almost
13 never saw him.

14 Q Were other people interested in your
15 regulatory processes around sometimes, in other words
16 was it common for people to come in and meet with
17 either you or Mr. Bennett or Mr. Singleton about
18 matters that were of concern to them?

19 A Yes.

20 Q It was common?

21 A Yes.

22 Q So other manufacturers representatives were

1 around sometimes?

2 (Discussion off the record.)

3 THE WITNESS: Yes.

4 BY MR. PORTNOY:

5 Q And other distributors were around
6 sometimes or representatives of distributors?

7 A Yes, that's correct.

8 Q And retailers as well?

9 A Yes.

10 Q Was it common for people involved in the
11 alcoholic beverage industry to seek some kind of
12 regulatory change?

13 A Could you be more specific in your
14 question.

15 Q Sure. You regulated as an agency the
16 alcoholic beverage industry in the state of Arkansas;
17 is that correct?

18 A Yes.

19 Q Was it uncommon for people involved in that
20 industry to have regulatory matters that they wanted
21 to bring to the ABC's attention?

22 A No, it was not uncommon.

1 Q And if a rule prevented someone from doing
2 something they wanted to do, would it be a normal
3 procedure for them to come and try to talk you guys
4 into letting them do it?

5 A Boy, that's a -- they would inquire as to
6 whether or not the regulations prohibited it. They
7 would get an opinion of the staff attorneys or they
8 would get -- if they went to the director first they
9 would get an opinion from him. Many times he would
10 ask us what we thought about it and provide him with
11 counsel.

12 Q Was this a process with give and take, they
13 would ask you a question, you would respond, they
14 might ask you a different question or provide you
15 with additional information?

16 A Yes, that's a fair description of it.

17 Q To the best of your recollection was there
18 anything unusual about the process of promulgating
19 the regulation concerning tasting rooms?

20 A No, I don't recall anything unusual about
21 that particular regulation.

22 Q You had or you answered a number of

1 questions concerning the wet/dry distinction in two
2 townships in Pulaski County. Just to be clear, is it
3 your recollection that that occurred in about 1983?

4 A I think so. I've not looked at any
5 documents to refresh my memory on that.

6 Q And it involved one or two liquor stores
7 that accidentally or by mistake had been approved to
8 open in a dry location?

9 A That's what I recall of it, yes.

10 Q You don't recall any relation to a real
11 estate development, do you?

12 A No.

13 Q Or any relation to an attempt to build a
14 brew pub?

15 A No, I don't.

16 Q Ms. Dyer, to the best of your knowledge,
17 did anyone from the governor's office pressure you to
18 promulgate a regulation concerning brew pubs or
19 tasting rooms?

20 A I didn't talk to the governor's office.
21 Charles Singleton talked to the governor's office.

22 Q But nobody pressured you, did they?

1 A No. I was not the person to pressure.

2 Q Okay. Did Mr. Bennett ever say to you that
3 he was under pressure from the governor's office with
4 respect to the regulation?

5 A I don't recall any conversation to that
6 effect with him.

7 Q Would you be likely to remember such a
8 conversation?

9 A I don't know. I don't know if I would or
10 not after all these years.

11 Q Did Mr. Singleton ever indicate to you that
12 he was under pressure from the governor's office with
13 respect to the tasting room regulation?

14 A Mr. Singleton didn't share very much of
15 those kind of things with us, so I don't recall any
16 conversation about that.

17 Q Just to summarize, do you recall anything
18 out of the ordinary about this regulatory process?

19 A I tell you what I do recall about the whole
20 business with Riley's Red Lion Beer. All of a sudden
21 there was somebody who wanted to establish a brewery
22 in Little Rock. We never heard of these people

1 before. We had no idea who their backers were, but
2 they had money and they had great plans to establish
3 this brewery and they were, it appeared that they had
4 all the financing they needed and then they got
5 started and then suddenly disappeared. They folded
6 not too long after they went into business and that's
7 my biggest recollection of Riley's Red Lion Beer and
8 the Riley-Lyon brewery.

9 Q Did anybody rush you in any way to draft
10 this regulation that you recall?

11 A I don't recall.

12 Q Do you remember any pressure to change the
13 way in which you had drafted the regulation?

14 A I don't recall.

15 Q Would it be fair to say that this was not a
16 an especially memorable sequence of events for you
17 professionally?

18 A That would be fair to say, yes.

19 MR. PORTNOY: That's all I have. Thank you
20 very much.

21 MR. GICALE: I just have a couple
22 questions.

EXAMINATION

2 BY MR. GICALE:

3 Q Earlier when Mr. Portnoy said did anybody
4 pressure you, I take it that if Mr. Singleton wanted
5 the regulation changed, he would tell you what he
6 wanted changed or drafted or put before the board and
7 you would do that; correct?

8 A That's correct, yes.

9 Q So you were responding to his request?

10 A Yes. I wasn't the person that the
11 governor's office or anybody else like that called
12 when they wanted changes. The person they called was
13 the director.

14 Q Now, earlier I believe I misstated
15 something. I asked you about the Pulaski County
16 location. What I meant to say was the location of
17 these townships on the wet or dry issue again was
18 where with respect to the city of Little Rock?

19 A My recollection is that the townships in
20 question were either in the city limits of North
21 Little Rock or very close to the city limits of North
22 Little Rock which would make that all in northern

1 Pulaski County and I believe northeast Pulaski
2 County.

3 Q Have you talked to Mr. Singleton about the
4 fact that you would be testifying today?

5 A No.

6 Q Why did you leave the board in 1989?

7 A I had a better job offer at the highway
8 department.

9 Q Have you talked to anybody else about your
10 testimony today or since this regulation was enacted
11 about the regulation and the process?

12 A Well, when I went to the ABC to review the
13 file I talked to Marilyn Hawley and I asked her if
14 this was all the notes that we had and this is all my
15 file contained and she said that's it.

16 Q And that would be the extent of your
17 conversations about this issue?

18 A Yes.

19 MR. GICALE: I have nothing further. Thank
20 you.

21 THE WITNESS: You're welcome.

22 MR. PORTNOY: Thank you very much,

1 Ms. Dyer.

2 MR. GICALE: Off the record.

3 (Whereupon, at 12:09 p.m., the deposition
4 was concluded.)

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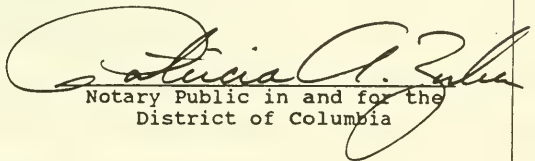
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TREECA J. DYER

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT Treeca J. Dyer

ERRATA

[illegible]

**DEPOSITION OF CHARLES R. SINGLETON
IN RE: S. RES. 120**

FRIDAY, JANUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES R. SINGLETON, called for examination pursuant to notice of deposition, at 10:35 a.m. in Room 640-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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P R O C E E D I N G S

MR. GICALE: Mr. Singleton, do you consent to being sworn in by the stenographer?

MR. SINGLETON: I do.

Whereupon,

CHARLES R. SINGLETON

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Could you please state your name for the record.

A Charles Roger Singleton.

Q Your present business address.

A I'm at 1 -- First Little Rock Plaza, Suite 255. That's at 10800 Financial Parkway, Little Rock, 72211.

Q Now, you're an attorney; correct?

4

A Right.

Q In sole -- you're a sole practitioner?

A Right.

Q What type of practice are you engaged in?

A I do mostly business contracts, commercial law, I do some legislative lobbying and probate. I guess I do quite a bit of probate.

Q How long have you been employed as a sole practitioner at that location?

A Well, I've been practicing law in private practice since 1987, January of 1987, when I left the ABC division at two or three different locations. I've been at this present location for a little over two years.

Q But in each of these instances as a sole practitioner, or in association with other people?

A Always a sole practitioner.

Q And in '87 you were at the ABC board in what capacity?

A I was the director of the ABC division; resigned in January of 1987.

Q How long were you at the ABC board?

1 A I started to work at the ABC as a staff
2 attorney in, I believe it was the spring of 1980. In
3 October of 1981, I was appointed director of the
4 agency and was a director until January of '87.

5 Q Who appointed you as director of the agency
6 in 1981?

7 A Governor Frank White, Republican governor
8 who defeated Governor Clinton after his first term.

9 Q And then you stayed on through '87 in
10 that --

11 A On through -- back then, our governor
12 served two-year terms. I stayed on through two terms
13 of Clinton.

14 Q And prior to going to the ABC board, where
15 did you work?

16 A Well, I graduated from law school in 1978
17 here in Little Rock. Passed the bar exam later on
18 that year and then worked for the law school for a
19 year after that as a legal clinic supervisor. And
20 then for a brief period I was a manager of a legal
21 aid office here in the state only three or four
22 months before I went to work for the ABC.

1 Q That would have been in 1980 when you were
2 manager of a legal aid office?

3 A It was like fall of '79 to spring of '80.

4 Q Now, have you reviewed any documents in
5 preparation for today's testimony?

6 A No, except for regulation that you're
7 concerned with.

8 Q You're familiar with it?

9 A Right.

10 Q Did you talk to anybody about the substance
11 of your testimony today?

12 A I talked to Don Bennett, an attorney for
13 the ABC who worked for me back during that time,
14 briefly yesterday afternoon, and specifically asked
15 him about the area of south Pulaski County that their
16 records out there shows being dry. Just refreshed my
17 memory about what that was, what part of the county
18 we're talking about.

19 Q Did you speak to anyone other than
20 Mr. Bennett --

21 A No.

22 Q -- about the substance of your testimony?

1 A No.

2 Q Did you speak about any other aspects --
3 did you speak to Mr. Bennett about the promulgation
4 of the regulation?

5 A Just generally about what he remembered
6 about the regulation, about who was involved and that
7 sort of thing. We discussed that.

8 Q Did you speak at all about the legislation
9 that was related to the regulation?

10 A He mentioned something about some
11 legislation. I was not familiar with what he was
12 talking about. I think he said something about a
13 bill that somebody had drafted and, you know, had
14 considered filing, but, you know, that wasn't
15 familiar to me and it seemed to be what he was
16 talking about. I don't think he'd ever seen it
17 either.

18 Q Mr. Singleton, this deposition is being
19 conducted pursuant to Senate Resolution 120. The
20 resolution establishes a Special Committee
21 administered by the Banking Committee to conduct an
22 investigation involving Whitewater Development

1 Corporation, Madison Guaranty Savings & Loan
2 Association, Capital Management Services, Inc., the
3 Arkansas Development Finance Authority and other
4 related matters.

5 Section 1(b)(3)(a) and (b) of Senate
6 Resolution 120 authorizes investigation and public
7 hearings into A, the operation, solvency and
8 regulation of Madison Guaranty Savings & Loan
9 Association and any subsidiary, affiliate or other
10 entity owned or controlled by Madison Guaranty
11 Savings & Loan Association; the activities,
12 investments and tax liability of Whitewater
13 Development Corporation and, as related to Whitewater
14 Development Corporation, of its officers, directors
15 and shareholders. This will be the focus of today's
16 deposition.

17 You were requested to testify earlier this
18 week. This deposition is being taken in advance of a
19 public hearing which may occur later this month or in
20 February. We will be asking you a series of
21 questions. You've agreed to testify under oath. If
22 you don't understand any questions, please let us

1 know.

2 The stenographer will prepare a record of
3 questions and answers. The deposition will be
4 treated as committee confidential until the
5 commencement of the hearings.

6 Prior to the hearings, you will receive a
7 letter from the Committee telling you that you may
8 come to the Senate to review the transcript of your
9 deposition and make note of any corrections for
10 transcription on an errata sheet. If necessary, the
11 Committee -- since you are out of town, the Committee
12 can make arrangements for you to review it in Little
13 Rock. And we can talk about that at some point
14 subsequent, if you need to do that.

15 If you are called to testify at a public
16 hearing, you will be permitted to have a copy of your
17 deposition transcript four days in advance of your
18 testimony.

19 You may be represented by counsel. I note
20 that you are appearing alone today; correct?

21 A Say again?

22 Q You're alone today?

10

1 A Oh, yeah, sure.

2 Q Objections to the form of questions will be
3 noted for the record. Counsel may object on grounds
4 of privilege or relevance and the Committee chairman
5 may rule on objections where the witness refuses to
6 answer a question.

7 Do you have any questions at this point?

8 A No, but I would like to review whatever,
9 you know, whatever the record is here before it's
10 finalized.

11 Q Okay.

12 MR. PORTNOY: The transcript, sir?

13 THE WITNESS: Right.

14 BY MR. GICALE:

15 Q For any errata. Okay. We will make
16 arrangements to do that.

17 Mr. Singleton, on February 20th, 1985 the
18 Arkansas Alcoholic Beverage Control board promulgated
19 a regulation providing in part that a native winery,
20 brewery, distillery or rectifying plant operating
21 within the state of Arkansas and licensed by the
22 Alcoholic Beverage Control division was authorized to

1 maintain a tasting room on their licensed premises
2 where samples of their products could be given to
3 persons touring such facilities.

4 Do you recall that regulation?

5 A Yeah, I do recall some things about it.

6 Q Who was responsible for the promulgation of
7 the regulation at the Alcoholic Beverage Control
8 board?

9 A I was as director. One of the functions of
10 director is that director writes or promulgates all
11 regulations and submits them to the ABC board of
12 directors.

13 Q Who -- did you have anybody to assist you
14 in that?

15 A When I was there, I had two attorneys
16 working for me. Don Bennett was one of them. Treeca
17 Dyer was the other one. Treeca, I think, had more to
18 do with the regulation than Don did, but for the most
19 part, when I was there, I wrote most of the
20 regulations myself.

21 Q And with respect to this particular
22 regulation, did either Bennett or Dyer assist you in

12

1 this one?

2 A I don't recall.

3 Q Now, what prompted you to write this
4 regulation?

5 A Best I remember, I had had some requests
6 from people involved -- at that time, we had a
7 rectifying plant, Hiram Walker plant, up in Fort
8 Smith who was interested in having a tasting room.
9 We also had five or six maybe seven or eight wineries
10 that would have benefited from it and we had a small
11 brewery here in Little Rock that was interested in
12 it. So it was probably some combination of those
13 people that had requested the regulation.

14 Q Do you know did each -- strike that.

15 Did someone from each of those businesses
16 contact you directly or did they contact someone at
17 the governor's office about this regulation?

18 A I don't know who contacted the governor's
19 office, if anybody. I do know that -- I don't
20 remember any specific conversations with these
21 people, but I know that based on how we did business,
22 we probably talked to all of them about it before it

1 was enacted, before it was adopted.

2 Q When you say "we," do you mean you would
3 have talked to all of them?

4 A Me or one of the attorneys.

5 Q Do you know -- do you recall who you talked
6 to from each of these businesses?

7 A There was a guy at Hiram Walker, I think,
8 by the name of Fred Steubal. I believe his name was
9 Steubal that I had known for several years. I'm sure
10 I talked to him about it. There was a guy who
11 represented the Arkansas hospitality industry that
12 was, you know, involved and interested in all
13 regulations we adopted named Maurice Lewis. I'm sure
14 I talked to him about it.

15 Down at the little brewery down here there
16 were two guys that were involved in the brewery, a
17 guy named William Lyon, another guy named Scott
18 Riley, and at different times I talked to both those
19 people. I don't remember specifically if I talked to
20 either one of them about this regulation, but I
21 probably did. And then a guy named Lee Guillaume, a
22 guy named Al Wiederkehr from Wiederkehr Winery, and

14

1 I'm sure I talked to him about it.

2 Q When did these people approach you about
3 this regulation?

4 A Well, this was 11 years ago, and I
5 certainly can't remember any specific dates, but I
6 can tell you that the typical timetable in adopting
7 regulations -- and this is not something that was
8 unusual to do because we adopted regulations every --
9 probably every year and a half or two years while I
10 was there, maybe more often than that. We would
11 start working on them probably six months before the
12 actual hearing and start putting regulations
13 together.

14 Q So this hearing was in February of 19 --

15 A '85, I believe. It was not the only
16 regulation we adopted. Typically we adopted 15 to 30
17 regulations each time we had a public hearing.

18 Q So you would have started working on this,
19 but this regulation in '84?

20 A Probably fall of '84, probably. Not, you
21 know -- like I said, I can't remember this specific
22 regulation, but the package regulations that we were

1 considering, probably would have started working on
2 them in the fall of '84.

3 Q Now, do you recall whether these people
4 contacted you directly or they contacted the
5 governor's office first and the governor's office
6 told you to contact them?

7 A I rarely had any contact with the
8 governor's office when I was over there. We pretty
9 much did our own thing as far as adopting
10 regulations, and I don't recall ever being contacted
11 by the governor's office about a regulation.

12 Q Well, specifically did anybody from the
13 governor's office contact you about this regulation?

14 A No.

15 Q Did Betsy Wright talk to you about this
16 regulation?

17 A Betsy Wright. I don't recall having a
18 conversation with Betsy Wright about this
19 regulation. Like I said, I don't recall having a
20 conversation with them about any regulations.

21 Q You don't recall. Does that mean you did
22 not have --

1 A Well, I can't tell you for certain I did
2 not have a conversation. You know, if Betsy Wright
3 had called over and said I want to talk to you about
4 a regulation, I'm certain I would have talked to her,
5 but I don't recall that ever having happened.

6 Q And you don't recall it happening with
7 respect to this regulation?

8 A I do not.

9 Q You do not recall anybody from the
10 governor's office talking to you about this
11 regulation?

12 A I do not.

13 Q And you do not recall Betsy Wright talking
14 to you about this regulation; is that correct?

15 A That's correct.

16 Q Okay. Now, you mentioned a number of
17 people interested in this regulation. Did they come
18 to you as a group? It was coincidence that they all
19 had an interest in this at the same time or was one
20 pushing this and the others followed?

21 A I don't recall that. I know I do recall
22 that Wiederkehr Winery was interested in it, and I

1 think that they were probably the lead interest
2 because they had more to gain by it than anybody else
3 at that time.

4 Q Would it have been your practice at that --

5 A Actually, say that again, please.

6 Q Would it have been your practice at that
7 point to determine whether or not others who had a
8 similar interest --

9 A We would know other people that we knew up
10 front would be affected by proposed regulation.

11 Q Well, that would happen in a formal way at
12 the hearing; correct, or would that be sometime
13 sooner?

14 A Well, there's a procedure we go through for
15 adopting regulations. I'm sure it's pretty much the
16 same in every state. Publication of a description of
17 the regulation has to be run in the newspaper. We
18 send copies of everything proposed to the Secretary
19 of State for publication and the state register at
20 that time.

21 Administrative procedures required that
22 anyone who requested notice be given notice of

1 adoption regulations. We had several people on the,
2 you know, on the list to give notice of any
3 regulation. We would notify those people. And if we
4 knew specific permit holders at that time that would
5 be affected, we would try to give them notice. I'm
6 sure we gave notice to everybody that manufactured
7 any alcoholic beverage in the state that would have
8 been affected by the regulation. Now --

9 Q Now, that's the formal process you just
10 talked about?

11 A Right.

12 Q Would there have been an informal process
13 where, for instance, perhaps Wiederkehr would have
14 approached you with the primary interest, and then --

15 A We got regulations back then from all
16 different sources. It was up to me, and it's up to
17 the director to decide if somebody comes and proposes
18 regulations to decide whether or not that would be of
19 benefit, you know, to the group, whether it would be
20 harmful to the public, you know, it was one of those
21 sort of things.

22 Q Was it your practice, for instance, if

1 Wiederkehr came forward with a proposed regulation to
2 informally discuss the impact of this regulation for
3 instance on the Hiram Walker people or the
4 hospitality industry people or the --

5 A Probably would have been.

6 Q Or the William Lyon small brewery business?

7 A Probably would have been. You know, back
8 then I had quite a bit of interaction with ABC
9 directors from other states as you might imagine.
10 Several states around us had similar regulations
11 during that period. I know Tennessee had one, Texas
12 had one, Missouri had one and, you know, we were
13 trying to do things that were beneficial to the
14 industry as a whole where we could. So that was one
15 of those efforts.

16 Q Now, where was the headquarters of
17 Wiederkehr Wineries?

18 A Altus, little town northwest of here.

19 Q How do you spell that?

20 A A-l-t-u-s. We have -- maybe a little
21 explanation might be in order. We have a native wine
22 law that's probably a little bit suspect

1 constitutionally based on some rulings. But it was a
2 law that allows native wineries to sell to
3 consumers. You're the only manufacturer in the state
4 that can sell to consumers legally and a tasting room
5 would have been something that would have helped
6 their sales. They do a lot of tourist deals, buses
7 coming through up there. And so like I say, it was
8 something that probably would have benefited them
9 more than anybody else.

10 Q Do you recall whether or not initially the
11 request was something more than a tasting room; that
12 is to say, there was a request that these businesses
13 be allowed to both manufacture beer, wine or alcohol
14 and sell beer, wine, alcohol on the premises of the
15 facilities for consumption on the premises or at
16 retail for consumption off the premise?

17 A Well, of course we couldn't have had any
18 authority to approve that. You know, we could only
19 approve what was allowed by state law.

20 Q I understand that. But was there a request
21 to consider that and an opinion rendered that you did
22 not have authority to do it unless the law was

1 changed?

2 A I don't recall that it was. I know that we
3 have a law today that allows that for breweries, you
4 know, kind of this generic microbrewery law that a
5 lot of states have.

6 Q When was that enacted?

7 A Probably three or four years ago maybe.

8 Q Do you know if there was an attempt to
9 enact it in 1984 or 1985?

10 A Don't recall whether -- I don't recall if
11 it was.

12 Q With respect to this specific regulation,
13 do you recall any specific conversations with William
14 Lyon or Scott Riley about the regulation allowing for
15 a tasting room?

16 A I don't recall any specific conversations,
17 you know. I probably did have one with one or the
18 other of those people since they were in the
19 businesses that would have been affected by it, but I
20 don't recall.

21 Q Do you recall talking to James McDougal
22 about this regulation?

22

1 A No. I've never met James McDougal and
2 never talked to him about anything as far as I know.

3 Q Do you recall talking to a Seth Ward about
4 this regulation?

5 A No, I don't know Seth Ward, never met him.
6 I've never talked to him best of my knowledge.

7 Q Do you recall talking to anyone from the
8 Rose Law Firm about this regulation?

9 A Fairly positive I didn't talk to anyone
10 from the Rose Law Firm.

11 Q Did you talk to Rick Donovan or Hillary
12 Clinton about this regulation?

13 A Don't know who Rick Donovan is and I've
14 never talked to Hillary about any regulation. Did
15 not talk about this one.

16 Q Did you know Hillary Clinton?

17 A Just socially, you know, political
18 functions that I attended. Didn't ever have any
19 dealings with her in her capacity as a lawyer.

20 Q Did you have any dealings with her with
21 respect to issues at the Alcoholic Beverage Control
22 board or commission?

1 A No.

2 Q Do you know whether William Lyon or James
3 McDougal or someone from the Rose Law Firm or from
4 the governor's office attended the public hearing you
5 had on this regulation?

6 A Again, I'm going to have to fall back to
7 what would be typical. I don't remember whether
8 William Lyon or his -- I guess Scott Riley maybe was
9 his partner back then. I don't know whether either
10 one of them were there. Governor usually had someone
11 there. Governor usually had a person who was a -- I
12 say usually. Sometimes they can have one there who
13 was the liaison person.

14 Q Who would that have been at that time?

15 A Who would it have been? I don't recall.

16 Q Who was the liaison to the governor's
17 office, the liaison between your department and the
18 governor's office while you were the director?

19 A Probably would of been several different
20 ones, and I don't recall who they were. They would
21 come occasionally come to an ABC board meeting and
22 just observe. You know, they didn't have the input

24

1 into the board, but I guess just to keep up with what
2 was going on.

3 Q Was this regulation a compromise from
4 something more that the manufacturers had requested?

5 A It could have been. I don't recall whether
6 it was or not. It could have been -- you know, a lot
7 of times, regulations didn't come out the other end
8 of the hopper in the same form they went in as a
9 proposal, after public input and after everybody had
10 a chance to pick it and decide what was, you know,
11 might be appropriate and what would not be. You
12 know, that's kind of the reason for the process of
13 giving people notice, you know, and asking for input
14 on it.

15 Q Well, could they have requested that you
16 promulgate a regulation?

17 A Ask that one again, please.

18 Q Could these manufacturers have asked that
19 you promulgate a regulation allowing them to sell
20 beer, wine or liquor on the premises?

21 A Well, they could have asked, but, you know,
22 knowing we didn't have any way to do it, I wouldn't

1 have been prone to write one that would allow that.

2 Q Would you have suggested to them that they
3 would need legislation?

4 A I'm sure I would.

5 Q Do you recall whether they suggested that
6 they seek legislation if that's what they wanted to
7 do?

8 A I don't recall any specific conversation
9 about this regulation. This regulation was not --
10 like I said, we adopted 20 or 30 at the time. This
11 one did not stand out in my mind over any of the
12 others we adopted. It's not -- it was not a big deal
13 at the time.

14 Q Were you familiar with the senator, James
15 Scott?

16 A I know James.

17 Q Do you know whether or not he had prefiled
18 a bill related to this issue allowing manufacturers
19 to sell beer, wine or liquor on premises?

20 A No, I don't recall whether or not he ever
21 filed a bill that would allow that.

22 Q Do you know whether he had prepared -- been

26

1 contacted to prepare a bill for filing on this issue?

2 A I know that I didn't contact him.

3 Q Do you know whether or not any of the
4 manufacturers including Lion or Wiederkehr had
5 contacted him about that?

6 A I don't recall. I wouldn't have any idea
7 what, you know -- that would not be uncommon for
8 somebody to contact a state senator and ask them to
9 propose a bill. That's how the process works here.

10 Q Was there any relationship between this
11 regulation and some proposed bill which would allow
12 for something more; that is to say, allowing
13 manufacturers to sell beer, wine or liquor?

14 A Any relationship --

15 MR. PORTNOY: I think the witness has
16 testified that he doesn't even know if there was a
17 bill. So that would be sheer speculation not based
18 on any firsthand knowledge.

19 BY MR. GICALE:

20 Q Was this regulation related in any way to
21 any legislation that was being contemplated?

22 A No. The regulations we adopt would only be

1 based on what the law at any given point in time
2 allowed to be done. We wouldn't be proposing a
3 regulation to do something that might be legal if an
4 act passed.

5 Q Well, I understand that. But supposing --

6 A No, you know --

7 Q Was there any agreement to enact this
8 regulation as a compromise --

9 A No.

10 Q -- and not filing the piece of legislation
11 that would allow for something more?

12 A Like I said, I don't really know about that
13 legislation and never talked to anybody about it, to
14 the best of my memory. The tasting room thing is
15 something that was common at the time that a lot of
16 states had, and like I said, when I took over that
17 job, our regulations were just in a shambles. And
18 they were antiquated and a lot of what I did was to
19 go through and throw out obsolete regulations and try
20 to update and do things that would foster the
21 industry and do things that seemed to be working in
22 other states, and that's just in my mind that's just

1 another example.

2 Q Were you aware of whether James McDougal
3 took steps or had taken steps with the governor or
4 the governor's office to remove any legislative or
5 regulatory restrictions in this area?

6 A Like I said, I didn't know James McDougal,
7 and what relationship he might have had with the
8 governor's office I don't have any knowledge of. And
9 James McDougal, to the best of my knowledge, was not
10 involved in the alcoholic beverage industry while I
11 was there, so I, you know --

12 Q Do you know whether McDougal had ever
13 written a letter to Betsy Wright in the governor's
14 office attaching a copy of a proposed bill providing
15 that beer manufacturers licensed by the Alcoholic
16 Beverage Control board could sell beer at retail and
17 restaurants located on the premises?

18 A No knowledge of any such letter. Like I
19 said, I didn't know James McDougal and didn't know he
20 had any interest in the alcoholic beverage industry
21 at that time. You know, we dealt basically with --
22 as far as adopting regulations with people that had

1 permits and had businesses that would be affected.

2 Q Were you ever aware of the fact that
3 McDougal had told Betsy Wright that the governor had
4 made a commitment concerning such a bill?

5 A No.

6 Q I believe you said you did not know Seth
7 Ward; is that correct?

8 A Did not, do not.

9 Q Did you ever hear of a proposal to develop
10 a brewery on the Castle Grande or IDC property?

11 A No, I don't recall ever having heard that
12 until here, you know, within the last year or so.

13 Q Okay. But you did not hear it when you
14 were director; is that correct?

15 A Not as far as I recall.

16 Q Do you know where the brewery that William
17 Lyon owned was located at the time that --

18 A Yes, it was --

19 Q At the time that the regulation was
20 promulgated or proposed?

21 A Uh-huh. It was on a highway here that we
22 call Cantrell Road. It's in downtown Little Rock.

30

1 Q How do you spell that road?

2 A C-a-n-t-r-e-l-l and was right, practically
3 right on the Arkansas River.

4 MR. PORTNOY: I'm sorry. Just to clarify,
5 did I hear you say that that was in downtown Little
6 Rock?

7 THE WITNESS: Right.

8 MR. PORTNOY: Thank you, sir.

9 THE WITNESS: Well, I guess you couldn't
10 say it's downtown. But it's very near downtown
11 Little Rock.

12 BY MR. GICALE:

13 Q Were you aware of any proposal to have Lyon
14 build an additional brewery at some other location?

15 A No. I'm not aware of it.

16 Q More specifically, were you ever made aware
17 of a proposal to have either Lyon or Seth Ward or
18 McDougal build a brewery at this property called
19 Castle Grande or sometimes referred to as the
20 Industrial Development Corporation property?

21 A No, I'm not aware of it. And, you know,
22 the process would not be that someone would just go

1 build a brewery. The process would be that they
2 would make an application with the ABC for a license
3 to operate a brewery contingent on it being built at
4 a certain location. No application was ever made to
5 my knowledge, you know, the application always would
6 precede any action to build anything.

7 Q Were you ever made aware of an issue with
8 respect to whether or not Union County, which merged
9 with Big Rock Township, whether or not that was wet
10 or dry, did that issue come to your attention in
11 '84-85?

12 A Down the --

13 Q I'm sorry, in 1984-85 or '86?

14 A Well, Union County is a county down on the
15 southern border of Arkansas.

16 Q I'm sorry. Union Township.

17 A The question again, please.

18 Q Were you ever requested to look into the
19 issue of whether or not Union Township, which had
20 merged into Big Rock Township, was a wet or dry
21 township for purposes of operating a brewery or --

22 A Our position would have been that it was a

1 dry township. I don't think there would have been
2 any question about that. We have --

3 Q Why is that?

4 A Well, we -- back then our enforcement arm
5 would maintain a map of the state and --

6 MR. GICALE: Hello?

7 MR. PORTNOY: Sir?

8 (Discussion off the record.)

9 MR. GICALE: Mr. Singleton, we would like
10 the record to reflect that the phone was
11 disconnected, and that we were required to call you
12 back. And now we'd like to remind you that you're
13 still under oath, and we'd like to have the
14 stenographer read back the portion of your answer,
15 the last portion of your answer, the answer that you
16 gave before you were disconnected so that you can
17 finish the answer to the question.

18 (The reporter read the record as requested.)

19 BY MR. GICALE:

20 Q Can you finish the balance of that answer?

21 A It's been a few minutes now, but I think it
22 was regarding the dry area in south Pulaski County on

1 Union Township. If we got an application on any area
2 of the state, we would rely on the records that we
3 had at that time about what was wet and what was dry,
4 and, you know, the enforcement arm of the ABC would
5 maintain what we considered to be our official map.
6 And when we got an application, we would assign it to
7 the enforcement arm to do an investigation.

8 If they came back and told us that the
9 application site was lying in an area that we
10 believed to be dry, then we would do one of two
11 things. We would send the application back and tell
12 them that it's in a dry area and we can't accept it.
13 Or we would process it and deny it because it would
14 be in a dry area.

15 Like I said, I don't recall ever getting an
16 application for any brewery in south Pulaski County,
17 so that would not have been done in this case.

18 Q Well, short of a formal application, do you
19 recall any informal discussions with anyone in
20 '84, '85, '86 or even 1987 about a proposed brewery
21 in Union Township which had been incorporated into
22 the larger Big Rock Township?

1 A I do not recall any conversations about
2 that.

3 Q And more specifically with respect to that
4 issue, do you recall any conversations with Richard
5 Donovan or Hillary Rodham Clinton from the Rose Law
6 Firm?

7 A Like I said, I don't know Richard Donovan
8 and I've never spoken to Hillary Rodham Clinton about
9 any ABC business while I was there.

10 Q Did you speak to Seth Ward or James
11 McDougal about this issue?

12 A I answered a few minutes ago I don't know
13 Seth Ward and I don't know James McDougal except what
14 I see in the news. Never spoke to either one of them
15 to the best of my knowledge.

16 Q Did you talk to William Lyon about this
17 issue?

18 A I don't recall having any conversations
19 about a brewery in south Pulaski County. I did talk
20 to William Lyon, as I said a little while ago, about
21 adopting a tasting room regulation, but one in my
22 mind has got nothing to do with the other.

1 Q If someone wanted to put a brewery in a
2 township that was voted dry, how would they go about
3 doing that? Would there be some kind of application
4 process or voting process that they would have to go
5 through to resolve that problem?

6 A Yes, there would be an application. They
7 would apply for a brewery permit on forms that the
8 ABC would provide to them. When the ABC received the
9 application, like I said, it would be assigned to an
10 enforcement, the enforcement people who would do the
11 investigation, report back whether or not it was in a
12 wet or a dry area.

13 Q Well, supposing it was in -- the response
14 was that it was in a dry area, was there something
15 else the ABC board or commission could do?

16 A Not to my knowledge. You know, if it had
17 been voted dry, it would have been denied because it
18 was in a dry area.

19 Q So there was no discretion?

20 A No discretion on that.

21 Q If someone wanted to change it, how could
22 they change that?

1 A Under our state law, when an area votes --
2 an area in an otherwise wet county votes dry, then in
3 order to ever get wet again, the same geographical
4 area has to come back and have a subsequent wet/dry
5 election. In other words, if Union Township had
6 voted dry, then Union Township as it existed when it
7 voted dry would have to come back and have a
8 subsequent election.

9 And, you know, when I was there, we
10 denied. I recall denying several permits in this dry
11 Union Township because the area was dry, several
12 applications.

13 Q Do you know when those requests were made,
14 those applications were made and who made them?

15 A I remember two or three convenience stores
16 down there. Gasoline stations that applied for
17 permits and we denied them because they were --
18 because it was in a dry area. I mean, that was kind
19 of routine. That area plus a lot of others.

20 Q Do you recall who it was that requested
21 permits for those convenience stores or gas stations?

22 A No.

1 Q Do you recall when those requests were
2 made?

3 A No. Sometime during the five and a half
4 years I was director of the agency.

5 Q Do you know whether or not there was a
6 convenience store and/or gas station on the property
7 that was known as Castle Grande or IDC?

8 A I don't know anything about Castle Grande
9 and really don't even know where it is. The answer
10 is no, I do not know.

11 Q Would there be a record of a request for
12 convenience store and/or gas station at the board?

13 A I doubt it. I have been over looking for
14 records at various times over the years and they tell
15 me they only keep records for three years over there
16 now, you know, the written paper records. So I don't
17 know. I guess there could be, but I doubt if there
18 would be any over there.

19 MR. GICALE: Off the record.

20 (Discussion off the record.)

21 BY MR. GICALE:

22 Q Mr. Singleton, were you ever asked to

1 consider the effect of a case entitled Village of
2 American Falls versus West, an Idaho Supreme Court
3 case which held where a new county is created from a
4 territory which is formerly comprised of dry counties
5 and also a territory that was formerly part of a wet
6 county and there was no legislative provision as to
7 whether the new county shall be a wet or dry county
8 until a local option election is held, the entire
9 newly created county becomes wet? Are you familiar
10 with that case and has that ever been referenced in
11 any request to put a brewery or other kind of
12 manufacturing facility for beer, wine or alcohol in
13 Arkansas in a township that's designated dry?

14 A No, I'm not familiar with the case and no,
15 it was never submitted to me for consideration in
16 regard to a brewery. We would go with what our own
17 state supreme court says on the issue. We would have
18 gone with it.

19 Q So you did not believe you had any
20 discretion at the time if that was the case, if a
21 township that was voted dry, Union Township was voted
22 dry in 1953, was no longer in existence and was

1 incorporated into a larger Big Rock Township?

2 A We would not have had any discretion. Our
3 position would have been -- our position would have
4 been to deny any application in an area that was
5 dry. And if the applicant felt that he had a grounds
6 for an appeal with the Supreme Court and then he'd
7 have the right to take it as far as he wanted to.

8 Q So your decision could be appealed
9 obviously to a court?

10 A Right, under the Administrative Procedures
11 Act, my decision as director was appealable to the
12 five-member commission or board, as I referred to
13 them earlier. Their decision would be appealable to
14 the circuit courts and that decision would be
15 appealable to our court of appeals or supreme court.

16 Q And under what circumstances could it be
17 appealed if it was arbitrary or capricious or
18 unreasonable?

19 A That's the standard. Substantial evidence
20 test that the Administrative Procedures Act sets out.

21 Q So arbitrary, capricious and substantial
22 evidence, is that it?

1 A Well, it's all rolled into one under our
2 law under Administrative Procedures Act. The action
3 can be overturned if it's arbitrary, capricious, not
4 supported by substantial evidence, but our courts
5 generally refer to those appeals as the substantial
6 evidence test because that's typically the issue that
7 they boil down to.

8 Q Do you know an individual by the name of
9 Ken Shemin, S-h-e-m-i-n?

10 A No.

11 Q Now, again if you were to determine whether
12 or not those records existed at the Alcoholic
13 Beverage Control division, and what I'm talking about
14 are the requests, for instance, to construct a
15 brewery in a certain place, that would be in the form
16 of an application, or what is the title of the
17 document that would exist if it exists?

18 A If someone had really made an effort to put
19 a brewery or any other kind of permit anywhere,
20 typically they would make an application. An
21 application would allow somebody else to do the work
22 for them and determine whether or not an area

1 qualifies for a permit.

2 Q But what would be the title of the document
3 if we were to attempt to --

4 A What document are we speaking of exactly?

5 Q The application you were talking about.

6 Would it be an application?

7 A I guess application for a brewery permit is
8 what you are talking about.

9 Q And your understanding is that those only
10 go back three years at this point?

11 A You'll have to check with the ABC division
12 and ask them that question. But what I said earlier
13 is that's what they tell me when I've gone out
14 looking for records on various things.

15 Q So then to sum this up, you know nothing
16 about any legislation that may have been discussed
17 and related to the tasting room regulation that was
18 enacted in February of 1985?

19 A I do not.

20 Q And you know nothing about any attempts to
21 place a brewery, construct a brewery on Castle Grande
22 property, any attempts to do that in '84, '85, or '86

1 or '87?

2 A I do not.

3 Q And you were never contacted by the
4 governor or anybody by the governor's office with
5 respect to this tasting room regulation or any
6 legislation related to if -- or related to the
7 manufacturer and sale of beer, wine or liquor on the
8 premises of a manufacturing facility; is that
9 correct?

10 A Was never contacted by the governor. If
11 someone on his staff contacted me about the
12 regulation, I don't recall it. Back then it would
13 not be unusual for Betsy Wright or whoever might be
14 chief of staff at the time to call over and say
15 what's going on with this issue or that issue. But I
16 don't recall any specific conversation about this.

17 Q While they might call to see what's going
18 on with respect to an issue, would they ever propose
19 any regulations that you in turn would propose?

20 A No. Their policy was pretty much hands off
21 as far as the ABC when I was there. There was very
22 little communication about anything.

1 Q When you say "their policy," who are you
2 referring to?

3 A On their staff, governor and governor's
4 staff.

5 Q Since 1985, '86 or '87, have you talked to
6 anybody about this tasting room regulation or --

7 A You are saying since then?

8 Q Yes.

9 A No. The only -- I think I told you a
10 couple few weeks ago we talked, some reporter had
11 called me from Washington Post or some other
12 publication sometime this past year and that's the
13 first conversation I'd ever had with anybody about
14 any of this.

15 Q And so that was this year; is that correct?

16 A Right. Well, last year.

17 Q Or last, 19 --

18 A In the summer I think of '95.

19 Q I believe I called you in December of this
20 year; is that correct?

21 A I think so.

22 Q And you were referring to earlier that

1 summer?

2 A A couple months prior to your call I
3 received a call and talked briefly to a reporter. I
4 don't recall exactly who it was with. I think it was
5 Washington -- is there a Washington Post?

6 Q Yes.

7 A I think that was it.

8 Q But other than that, you've had no
9 conversation with anybody else about this tasting
10 room regulation?

11 A No.

12 Q Or the proposed --

13 A My conversation with Don Bennett yesterday
14 afternoon.

15 Q Right. Or the legislation that I referred
16 to?

17 A Don't know anything about the legislation.
18 And of course wouldn't have had any conversations
19 about something I don't know about.

20 Q And did you ever have any conversation with
21 anybody about any application for a brewery permit in
22 the Union Township which eventually became part of

1 Big Rock Township?

2 A No.

3 MR. GICALE: I have nothing further at this
4 point.

5 EXAMINATION

6 BY MR. PORTNOY:

7 Q Mr. Singleton, my name is Jim Portnoy. I'm
8 counsel for the Minority and I don't have much to
9 add, but I do have a few questions.

10 A Okay.

11 Q I believe you testified earlier that when
12 you became director of the ABC, you considered the
13 regulations to be less than perfect?

14 A Yeah. They were in pretty much of a mess
15 as a matter of fact.

16 Q And you undertook an effort to update the
17 regulations?

18 A I did and republished them. Republished
19 the book of regulations while I was there and had
20 several hearings to adopt regulations in all areas
21 over the course of the five years I was there.

22 Q So you were routinely revising your

1 regulations during your tenure?

2 A Pretty much constantly we were rewriting
3 regulations, and periodically, we would hold a public
4 hearing that's required to adopt new regulations. I
5 don't remember how many times we did it, but several
6 times over the five-year period we had public
7 hearings to adopt regulations.

8 Q In connection with your efforts to update
9 the regulations, sir, did you routinely meet with
10 representatives of the industry that you regulated?

11 A Yes.

12 Q Why did you hold such meetings, sir?

13 A For a couple reasons. You know, I felt
14 like it was part of the job to get along with people
15 in the industry as best we could since we were
16 regulating those people. But more importantly, the
17 Administrative Procedures Act required that we give
18 notice of intended action to the public and the
19 people affected, and we tried to do that.

20 Q Would it have been normal or usual for the
21 people you met with to make suggestions about ways
22 that your regulations could be improved or updated?

1 A Yeah. It was routine that that would be
2 the case.

3 Q You also testified, sir, that you recall
4 the impetus for the tasting room regulation coming
5 from the industry itself; is that correct?

6 A Yeah, I believe it did.

7 Q Did you view the regulation as part of your
8 efforts to update and modernize the ABC regulations?

9 A I did.

10 Q Was there anything special about the
11 enactment or promulgation about section 6.2 that you
12 recall?

13 A No, I guess that's the reason I don't, you
14 know, don't have any specific memory of it. It's
15 just one of a group of regulations that we considered
16 and adopted. At the same time there had probably
17 been 15 or 20 others, that other people would have
18 been interested in and would have communicated
19 about. This one does not stand out in my mind over
20 any of the others.

21 Q Would you describe it as routine?

22 A Yes.

1 Q You indicated that you had a passing
2 relationship with Mrs. Clinton. You met at
3 fundraisers or other social events. Maybe you didn't
4 say fundraisers.

5 A Well, I didn't do fundraisers back then. I
6 tried to stay away from those type things because I
7 didn't have any funds. You know, little receptions
8 at the governor's mansion or some little to-do at the
9 capital, things like that. I didn't know her
10 personally, but I would, you know, I knew who she
11 was.

12 Q She was a prominent --

13 A Participated in a little small talk with
14 her a few times.

15 Q She was a prominent person in the state of
16 Arkansas, wasn't she, sir?

17 A Yes, she was.

18 Q You would have remembered if she had called
19 you and tried to influence you in any way, wouldn't
20 you?

21 A I would have. Like I said, I've never
22 talked to Hillary in her capacity as an attorney

1 about anything while I was there.

2 Q I know you've addressed this question, sir,
3 but I'd like the record to be clear. Did anyone from
4 the governor's office or anyone purporting to be
5 acting on behalf of the governor ever pressure you in
6 any way to draft or promulgate a regulation
7 permitting tasting rooms that you recall?

8 A No, they did not.

9 Q The regulation we've been discussing was
10 approved by the ABC board on February 20th, 1985.
11 Are you aware of that, sir?

12 A Yes.

13 Q Mr. Gicale asked you about legislation
14 concerning brew pubs specifically and you testified
15 repeatedly that you had no knowledge of any such
16 legislation. That's correct, isn't it, sir?

17 A Correct.

18 Q If I were to tell you that a state senate
19 bill to permit brew pubs was withdrawn on February
20 18th of 1985 two days before the regulation was
21 approved, would you say that was an unrelated
22 coincidence?

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1 A I would say so. I would be surprised if
2 that was the case, but it very well could have been.
3 Like I said, I didn't know anything about a bill.

4 Q It's been suggested in the media, sir, that
5 the similarity in timing suggests a relationship
6 between the two events. You're not aware of any such
7 relationship, are you, sir?

8 A No, I'm not.

9 Q And as the director of the ABC, you're the
10 person who would be most likely to be aware of such a
11 relationship, aren't you sir?

12 A I would be the one who would have been
13 involved in discussions if there had been
14 discussions, that's correct.

15 Q Are you comfortable then, sir, in saying
16 there absolutely was no relationship between the two
17 events?

18 A There was no relationship that I can
19 recall. Like I said, I don't recall any bill or
20 discussing any bill with anyone.

21 MR. PORTNOY: That's all I have,
22 Mr. Singleton. Thank you very much for making

1 yourself available to us this morning.

2 THE WITNESS: You're welcome.

3 MR. GICALE: I have nothing further.

4 (Discussion off the record.)

5 (Whereupon, at 11:50 a.m., the deposition
6 was concluded.)

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CHARLES R. SINGLETON

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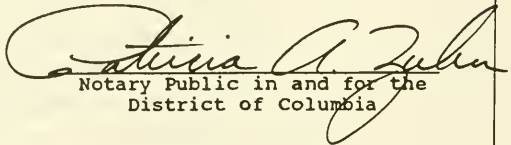
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
13	21		strike name "ice Guillaume". I do not know anyone by that name & doubt I said it.	
17	14		"And" the state register - "in" the state register - typo	

**DEPOSITION OF LANCE RANDELL MILLER
IN RE: S. RES. 120**

MONDAY, JANUARY 22, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of LANCE RANDELL MILLER, called for examination pursuant to notice of deposition, at 2:20 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

DOUGLAS R. NAPPI, Esq.

Majority Counsel

MARK J. BRENNER, Esq.

Majority Assistant Special Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

SHERRY BARTLEY, Esq.

Mitchell, Williams, Selig, Gates & Woodyard

320 West Capitol Avenue

Suite 1000

Little Rock, Arkansas 72201

On behalf of the Deponent

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EXHIBITS

Lance Randell Miller DEPOSITION NUMBER	IDENTIFIED
Miller Exhibit 1	32, 1331
Miller Exhibit 3	94, 1332
Miller Exhibit 4	138, 1335

P R O C E E D I N G S

MR. NAPPI: It is 2:25 on the 22nd of January, 1996. My name is Doug Nappi. I am Majority counsel of the Senate Banking Committee. With us here is Mark Brenner, who is assistant special counsel for the Whitewater Special Committee, and Jim Portnoy.

Jim, why don't you state your title for the record.

MR. PORTNOY: I am in some order or other Minority associate special counsel.

MR. NAPPI: This deposition is conducted pursuant for Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority and other related matters.

Section 1(b) of the Senate Resolution 120 authorizes investigation and public hearings into, amongst other matters, the operations, solvency and

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regulation of Madison Guaranty Savings & Loan and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan.

This is a preliminary telephone deposition. It may be necessary to require your presence for a deposition in person at a later date. This deposition is in advance of public hearings anticipated to occur in late January and February. You may be called to testify at these hearings.

We will ask a series of questions. You will be testifying under oath. If you don't understand the question, let us know and we will rephrase the question. If you need a break, please let us know and if it is an appropriate time, we will go off the record and take a break.

The stenographer will prepare a record of questions and answers. The deposition will be treated as committee confidential until the commencement of hearings. Prior to the hearings, you will receive a letter from the committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any

1 corrections for transcription on an errata sheet.

2 If you are called to testify at a public
3 hearing, you will be permitted to have a copy of your
4 deposition transcript four days in advance of the
5 hearings.

6 You may be represented by counsel. Are you
7 so represented?

8 MR. MILLER: Yes.

9 MR. NAPPI: Could counsel please state your
10 name and business address and phone number for the
11 record.

12 MS. BARTLEY: Sherry Bartley, Mitchell,
13 Williams, Selig, Gates & Woodyard, 320 West Capital,
14 Suite 1000, Little Rock, Arkansas 72201. Area code
15 501-688-8860.

16 MR. NAPPI: Objections to the form of
17 questions will be noted for the record. Counsel may
18 object on grounds of privilege or relevance. The
19 Committee chairman will rule on objections where the
20 witness refuses to answer a question.

21 Please swear in the witness.

22 Whereupon,

1 LANCE RANDELL MILLER

2 was called as a witness and, having first been duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. NAPPI:

6 Q Mr. Miller, please state your full name for
7 the record.

8 A Lance Randell, R-a-n-d-e-l-l, Miller.

9

10

11 Q Your present business address.

12 A Same as Ms. Bartley described. I can give
13 it to you again if you want it.

14 Q That's fine. What is your present position
15 at the Mitchell, Williams firm.

16 A I am a member of the professional limited
17 liability company of which this firm does business,
18 equivalent of a partner since we are members of the
19 LLC.

20 Q When did you become a partner at the firm,
21 approximately?

22 A I think it was January of 1990, but I'm not

1 sure. It could have been '91.

2 Q When did you join the firm?

3 A I have been here, left, came back. I
4 joined the firm in 1982 as a law clerk while I was
5 still in law school, clerked with the firm until I
6 graduated in '85. Practiced law here from '85 until
7 the end of July of '87, left in July of '87 and
8 practiced in my hometown of Jonesboro through August
9 of '89 and moved back and have been here since August
10 of '89.

11 Q When you were practicing in Jonesboro, were
12 you a solo practitioner?

13 A I was a member of a firm there.

14 Q Please state the name of the firm.

15 A The name then was Walker, Snellgrove,
16 Laser & Langley. Mr. Walker died while I was there
17 and the firm has been renamed Snellgrove, Laser,
18 Langley, Lovett & Culpepper, I believe is the correct
19 name.

20 Q You were employed at the firm beginning in
21 '82 as a law clerk while you were at law school?

22 A That's correct. It may have been '83. I

1 believe it was '83 because I started in May of '82
2 and would have started clerking after my first year.
3 So it was probably '83.

4 Q Run us through your educational history
5 briefly from high school on.

6 A Graduated from Jonesboro High School in
7 '78, entered Arkansas State from '78 to '82.
8 Graduated in '82 with a BA in political science.
9 Went to law school here in Little Rock from '82
10 through '85.

11 Q During that time you were employed as a law
12 clerk while you were attending law school, were there
13 any other jobs you held during your attendance of
14 college or law school?

15 A During college, I was a full-time
16 farmhand. My parents and I farm rice and soybeans
17 north of Jonesboro. I was a full-time farmer.

18 Q Okay.

19 A When I graduated from law school, I worked
20 landscaping work wherever I could get somebody to pay
21 me a dollar.

22 Q Fair enough.

1 Did you speak to anyone other than counsel
2 prior to this deposition regarding your testimony?

3 A No, other than Ms. Bartley or other members
4 of our firm.

5 Q What other members of the firm did you
6 discuss your deposition with?

7 A We discussed some of the issues involved.
8 Maurice Brenner, who Mr. Mitchell initially had all
9 of his conversations with, I was sitting in the room
10 when Mr. Brenner and Mr. Mitchell were talking. John
11 Selig, our managing partner, I advised him I was
12 scheduled to do this today.

13 Q That's it as far as people you have
14 discussed your deposition with?

15 A That's correct. When you say discuss the
16 deposition, yes.

17 Q What did you discuss with Mr. Mitchell?

18 A To be honest, about how many different
19 times we were scheduling this thing. He and
20 Mr. Brenner were doing all the talking. I was
21 basically listening.

22 Q Did you discuss the substance of what your

10

1 testimony would be with either Mr. Mitchell or
2 Mr. Selig?

3 A He knows. The one memo that I drafted,
4 yes, he is aware of the memo and my phone sheet. So,
5 I mean yes, if that's the substance of my deposition,
6 yes, we discussed that.

7 Q What was the nature of that discussion?

8 A I drafted a memo back in '87 as to what
9 these allegations were and -- I don't know if they
10 were -- he didn't try to influence my testimony in
11 any way. It was trying to recollect what went on
12 back in '87 as may have been reflected in the memo.

13 Q This was Mr. Selig or Mr. Mitchell?

14 A That was Mr. Mitchell.

15 Q Okay. What about with Mr. Selig?

16 A We were also asked to have present a
17 September of '87 letter, and that has Mr. Selig's
18 name on it.

19 Q Okay.

20 A It was basically what that was all about.

21 Q So he provided you with background on how
22 that 1987 letter was compiled?

1 A I wouldn't say he provided me any
2 background. I think we were trying to figure out if
3 I had any input into this letter, is what we were
4 trying to determine.

5 Q Okay. If I could return again to
6 Mr. Mitchell for a moment. Did he tell you what he
7 recalled regarding the notes and the memo that you
8 had prepared in September of 1987?

9 A No. I don't think he was involved in it in
10 '87 when it occurred, not that I had any direct
11 contact with. Other members of the firm may have
12 discussed it with him, but I did not.

13 Q Are you aware of any other discussions
14 regarding this memo and your handwritten notes from
15 September of '87?

16 A I have talked to Ms. Bartley.

17 Q Okay. Have you ever testified about the
18 matters that the Special Committee is investigating
19 in another forum?

20 A I have been interviewed by the FBI.

21 Q Okay.

22 A It was the FBI and the Special Counsel, a

12

1 representative of his office.

2 Q All right. Have you had any contact with
3 anyone working in the White House or working with the
4 federal government since President Clinton was
5 elected?

6 A No.

7 Q Clearly, other than the FBI and the Special
8 Counsel contact.

9 A Yes. I didn't consider them working with
10 the White House. But no, no one from that branch.

11 Q Has anyone from the news media or anyone
12 else contacted you about the matters that the Special
13 Committee is investigating?

14 A There was a newspaper gentleman who
15 contacted me back in the summer of '95 about my memo
16 and my phone message.

17 Q Do you recall who that was?

18 A John Salomon, Associated Press writer, and
19 Bill Simmons who was the local Associated Press guy.

20 Q Did you talk to them or discuss the
21 substance of your memo or notes?

22 A They had -- I talked to them to the extent

1 necessary to confirm that they had a copy of my phone
2 message and a copy of my memo. The one question that
3 I do recall was he asked me if they were accurate,
4 and I stated that they accurately described the
5 allegations that had been made.

6 That was pretty much the extent of it. I
7 didn't think I could go into anything from an
8 attorney-client privilege standpoint.

9 Q What do you mean they accurately described
10 the allegations that had been made?

11 A Basically confirmed that the memo -- I
12 basically viewed myself as being a reporter, or I
13 guess a stenographer, in that the memo accurately
14 reflects what Pat Heritage said to me, not that the
15 allegations were true, but that I accurately wrote
16 down what she said that Greg Hopkins said that
17 Mr. Peacock said.

18 MR. PORTNOY: To clarify, your statement
19 was "not that the allegations are true"?

20 THE WITNESS: Right.

21 BY MR. NAPPI:

22 Q It is your testimony that you confirmed for

1 them that this was an accurate transcription, if you
2 will, of what you were told by Ms. Heritage?

3 A Yes.

4 Q And you did not go into the substance of
5 the allegations, providing them with corroboration?

6 A That's correct. The only thing I do recall
7 that we did try to corroborate, he had asked
8 something about there were some statements about
9 getting the Peacock bankruptcy dismissed and did we
10 follow up and file the foreclosure actions and
11 everything up in White County. He had been unable to
12 find them in White County.

13 We confirmed that yes, they had been filed
14 in White County and sent him back up there to find
15 the pleadings if he wanted to file them. We did
16 confirm, and those were a public record and there
17 wasn't anything attorney privileged about the fact
18 that the lawsuits had been filed. The that's the
19 only other matter that we did at least confirm.

20 Q Have you told anyone else about your
21 deposition that you haven't mentioned?

22 A Probably my wife.

1 Q Other than family?

2 A No. My secretary probably knows that I'm
3 in here today.

4 Q Did you discuss or have you discussed the
5 matters that are the subject of this Senate Special
6 Committee's investigation with any representative or
7 member of a committee from the House of
8 Representatives looking into these matters?

9 A No. I mean, I don't know the full extent
10 of what you are investigating. But I can still
11 answer it no, I have not talked to anyone other than
12 the people I have previously told you about these
13 matters.

14 Q Okay, fair enough.

15 If we could return to your employment at
16 Mitchell, Williams.

17 A All right.

18 Q You joined the firm full time as an
19 associate in 1985?

20 A Yes, sir.

21 Q Prior to that, you were a law clerk?

22 A Yes, sir.

1 Q From '82 to '85?

2 A I think it is going to be '83.

3 Q '83 to '85.

4 Could you explain the circumstance of your
5 hiring as a law clerk.

6 A I'm not sure I understand the question.
7 They needed somebody to --

8 Q How did you come to be employed as a law
9 clerk at Mitchell & Williams? Just give us the
10 background.

11 A As I recall it, they either posted a notice
12 at the board or I think a friend of mine, a guy named
13 Roger Colbert, said hey, the Mitchell firm is looking
14 for somebody. I think I called somebody up here and
15 they said yes, we need some people, come interview.
16 I came and interviewed and they hired me.

17 Q Spell the last name for the record.

18 A The gentleman who told me there might be a
19 position at the Mitchell firm? C-o-l-b-e-r-t. He is
20 an attorney in Paragould, Arkansas.

21 Q As a law clerk, were you attached to any
22 particular department of the firm?

1 A Yes. I was in the -- well, no, we weren't
2 specifically assigned to any particular area. I kind
3 of evolved into the bankruptcy area. We had several
4 large farm cases going on, and since I knew what a
5 combine and a tractor was and how much beans they
6 should be producing, I kind of ended up in that
7 area.

8 Q In that area, you mean the firm's
9 bankruptcy practice?

10 A I was not exclusively assigned to them. I
11 did work for the tax department, for all other
12 departments. But yes, I primarily did work in the
13 bankruptcy area, as I recall.

14 Q At that time, how many different
15 departments were in the firm?

16 A I don't recall, but I would guess probably
17 five, six.

18 Q Was there a litigation department?

19 A Yes.

20 Q Maybe it would be helpful if you could run
21 us through how the firm is broken down by department,
22 to the extent you can, both at that time and moving

1 forward.

2 A At that time, we had so many different
3 conglomerations I really couldn't tell you. In
4 general, it has kind of been along the same lines, we
5 had departments and then we kind of had practice
6 groups within departments and areas and I don't
7 know. We are a corporate firm. We have corporate
8 type litigation. We have an insurance regulatory
9 area. We have a tax area. We have a pure corporate
10 area. Then we have an environmental area.

11 Those areas have kind of existed since that
12 time in some form or another. So those would be the
13 general practice areas or departments. Yes, since
14 that time we developed an insurance defense area that
15 wasn't here in '83 but is now.

16 Q Okay. So, when you joined in '83, there
17 were five general practice areas?

18 A As I recall, yes.

19 Q You weren't specifically assigned to one
20 area, but as time went by, you got more involved in
21 the firm's bankruptcy practice, which I take it was
22 part of the litigation?

1 A Correct. Our firm still does today -- with
2 our law clerks, we try to let them circulate through
3 different areas and not pigeonhole them with one
4 group to see what they like. When I went to law
5 school, I thought I wanted to be a tax lawyer. I
6 concluded real quick that I didn't. You get a
7 variety, a sampling of different areas.

8 Q Was there a particular attorney who you
9 reported to as a law clerk?

10 A There probably was somebody in charge, but
11 I don't recall who it would have been. Deborah Brown
12 was the attorney in charge of recruiting. So, it may
13 have been Ms. Brown. She is no longer here.

14 But we are much more organized now. Then
15 we had lots of work and needed more bodies to be
16 doing work. So we were just given projects and did
17 them and turned them back in to the attorney who gave
18 us the project.

19 Q During the time you were a law clerk, did
20 you ever work with Jim Guy Tucker?

21 A Yes, sir.

22 Q Do you recall on what matters?

1 A No, sir.

2 Q Did you work with Beverly
3 Bassett-Schaffer?

4 A I'm sure that I did. It would have been
5 much more limited, if at all. She was primarily
6 involved in securities. I knew that was not an area
7 I was going to be involved in.

8 Q You don't recall any specific matters or
9 the nature of the work?

10 A She might have asked me at some point to
11 find the statute of limitations for something. She
12 could have. I don't recall she ever did. That is
13 certainly a possibility that I worked with every
14 lawyer that was here. As a law clerk trying to find
15 a job, I wanted to work for as many people as I could
16 find to hopefully convince them that they should
17 employ me.

18 Q What about John Selig?

19 A I do not recall what the nature of any of
20 those would have been, but I am sure I did.

21 Q Breck Speed?

22 A Breck and I were running buddies. We would

1 have been on a par together. He would not have given
2 me any assignments.

3 Q By "on a par," you mean he was a law clerk
4 when you were?

5 A I'm sorry, he was not here when I was a law
6 clerk.

7 Q We are focusing on your employment as a law
8 clerk.

9 A I think Breck came about the same time I
10 did when I was an associate. I don't think he would
11 have been here when I was a law clerk.

12 Q Do you recall as a law clerk doing any work
13 for Madison Guaranty?

14 A No, not as a law clerk.

15 Q Is that no, you did not, or no, you do not
16 recall?

17 A No, I do not recall. I don't believe that
18 I did, but I don't recall it if I did.

19 Q Do you have any records that might refresh
20 your recollection regarding that?

21 A I do not, no, sir.

22 Q You joined the firm in 1985; right?

1 A Yes, sir. I believe it would have been in
2 August, after I got the bar results back.

3 Q At that time, were you assigned to a
4 particular department?

5 A Yes, sir. It would have been the
6 bankruptcy general litigation area.

7 Q Let's back up just a bit here and focus in
8 on 1985. You were a law clerk. Did you continue
9 working as you studied for the bar? Could you run us
10 chronologically, your employment at Mitchell,
11 Williams during the year 1985.

12 A I went to school and finished up my last
13 semester. I continued to work. My recollection is
14 probably kind, but I remember putting in lots of
15 hours while still going to school. I received an
16 offer I guess the summer before. So I knew where I
17 was going to be working. The firm did give us two
18 weeks off if we wanted it, but I needed -- it was
19 without pay, and I needed the money worse than I
20 needed to study. So I continued to work. I think I
21 did take a week or so off. I then took the bar and
22 came back and worked again as a clerk until I got the

1 bar results, and then I switched from being a law
2 clerk to an associate.

3 Q At that point in time you joined the
4 bankruptcy group in the litigation department?

5 A As best I recall, yes, I would have
6 probably then been officially assigned to them.

7 Q During your time of employment with
8 Mitchell, Williams, from 1983 to the present, has the
9 firm had procedures to identify and determine
10 conflicts of interest?

11 A Yes, sir.

12 Q Could you explain those procedures and how
13 they may have evolved or changed over time?

14 A I don't know that I can accurately do
15 that. I can, I guess, give you my perception of it.
16 The firm has always tried and has always been
17 conflict sensitive even, in my observation, sometime
18 to a point we turn down more work than we take
19 sometimes. But we have tried to maintain every
20 client we have in a central system that used to be
21 just books and paper, and it has evolved to a
22 computerized system now.

1 We even do -- I don't know when we
2 instituted a thing called a golden rod. We check all
3 possible conflict names and then we circulate a
4 yellow piece of paper or a gold piece of paper around
5 the office to just see if there are any, maybe not
6 real legal conflicts but they might be a business
7 conflict or somebody's relative, neighbor, friend,
8 like that, to see if there is any reason why we
9 shouldn't take on a particular piece of work.

10 Involving me, every time I represent a
11 creditor in that bankruptcy, we input every
12 creditor's name. I end up waiving a lot of
13 conflicts. They are actually false hits, the people
14 involved being a creditor in the same bankruptcy.

15 So, since I have only worked at one other
16 place, I don't have a lot of comparison. But I know
17 compared to that one other place, we have a very good
18 conflict system.

19 Q You said it is called the golden rod
20 system?

21 A Yes.

22 Q Do you recall when that was put in place?

1 A That one piece of paper is called the
2 golden rod. Our conflict system is not called the
3 golden rod system.

4 Q That system has been in place since you
5 joined the firm?

6 A That golden rod -- are you talking about
7 the conflict system or the golden rod system?

8 Q Maybe I lost you as to how your conflict
9 system works.

10 A Now -- I may have confused you. Now
11 every -- Acme Corporation comes to me and can I
12 represent them as a secured creditor in the Chapter
13 11 of ABC company. I have to give the name of Acme
14 Corporation and their directors and principals to our
15 conflict department, I guess. There is a lady back
16 there who maintains the computer. She punches that
17 up to see if my neighbor next door may have
18 incorporated Acme Corporation or that if we are
19 following a particular debtor, that someone hadn't
20 worked with that debtor.

21 If that comes back clean that there are no
22 conflicts, then I separately circulate a gold piece

1 of paper. We call it a golden rod. I ask all my
2 other members, associates, paralegals and maybe even
3 secretary that if anyone knows of any other reason
4 that it didn't come out in the actual legal conflict
5 of why I shouldn't represent this company involving
6 this debtor. That second step is the golden rod.

7 Q Thank you for clarifying that. That is the
8 same system that has been in place since you have
9 been a law clerk?

10 A No. I don't think the golden rod went back
11 as far as '83. When between '83 and '96 we started
12 that I'm not sure. I know it has been around five
13 years or so, I believe. But I just don't know. We
14 have always had the system where you had to run a
15 potential new client through whatever system was in
16 place. Before we were computerized, it was a manual
17 book system.

18 Q When did you go computerized?

19 A I want to say it was -- I just don't know.

20 Q Can you approximate?

21 A When everybody else did. '87. I don't
22 know. I can remember we had the old mag card

1 typewriters and then we went into some kind of
2 antiquated computers. It has just kind of evolved.
3 It has been in the '80s, but I don't know when.

4 Q The system became computerized, but the
5 methodology of searching for conflicts did not
6 change?

7 A Right, except I guess we are more
8 sensitive. That has just kind of been an issue the
9 last 10 years with lawyers and I think nationwide
10 lawyers have tried to become sensitive to finding any
11 potential conflict.

12 Q Is it fair to say the firm placed a greater
13 emphasis on searching out conflicts in its recent
14 past?

15 A I think that has always been an emphasis of
16 this firm. There is no defining point that it is
17 greater now than it ever has been. The computer
18 enables us to look at more things than we might --
19 could have before. This firm has always been
20 extremely conflict conscious.

21 Q Do you recall when Madison Guaranty first
22 became a client of your firm?

1 A No, sir. I have a vague recollection of
2 when I first started doing work for them, but I don't
3 know when they first became a client of the firm.

4 Q Do you recall when you first started doing
5 work for them?

6 A In late '86, early '87.

7 Q Prior to that, you had done no work on
8 Madison Guaranty matters, either as a law clerk or as
9 an associate?

10 A I have no recollection of doing any work
11 for them. I don't know.

12 Q Whose client was Madison Guaranty? Which
13 lawyer in the firm was the billing client for Madison
14 Guaranty?

15 A I don't know that either.

16 Q Who did you -- can you recall all the
17 Madison Guaranty matters that you worked on?

18 A No, sir, I certainly cannot.

19 Q If I listed some matters -- strike that.
20 Do you recall the nature of the work you
21 did?

22 A Yes, sir. It was all pretty much the

1 same.

2 Q What was that work?

3 A I was a young lawyer, and I was a
4 collection lawyer. That's about the best way to
5 describe it. They would have defaulted notes and
6 mortgages. I would go repo cars. I would foreclose
7 houses. I would repo tractors. I probably got into
8 some sophisticated stuff when they had say a trustee
9 on a bank account there and maybe somebody had
10 wrongfully taken the money out and ripped off their
11 mother or something. I would be over in probate
12 court fighting over the proceeds of some account.
13 Other than dealing with an account, something dealing
14 with an account, it was a pure collection practice of
15 mortgages on real estate and security interest in
16 personal property.

17 Q So, foreclosing on bad debt and unpaid
18 loans?

19 A Correct. That was the nature, that was the
20 limit of my involvement.

21 Q Who did you report to on these matters?

22 A I reported back to the client. Pat

30

1 Heritage was my primary contact there at the
2 institution.

3 Q So, there was not partner who supervised
4 you?

5 A There was another associate, a guy named
6 Tim Grooms that I worked with pretty closely. My
7 recollection is we did status reports. They might
8 have been provided to someone else in the firm,
9 possibly to Mr. Selig; I don't know. No, there was
10 no direct partner that I answered to on a daily
11 basis.

12 Q Who did you address the status reports to?

13 A I'm sure they would have gone to
14 Ms. Heritage, as I recall. She was my primary
15 contact. We may have sent them to a higher up there,
16 but I don't recall.

17 Q You said you worked on your first
18 Madison-related matter in late '86. Do you recall
19 what month of 1986 this was?

20 A No. Just looking at this memo, Peacock --
21 this stuff all happened in April of '87. I can just
22 recall that I had some matters going on prior to

1 that. That's why I said late '86 or early '87. I
2 don't know the date. But I was trying to get you in
3 the ballpark, and that's where I suspect it would
4 be. I don't recall what the nature of the first
5 Madison file was.

6 My recollection was that there were several
7 files sent over here and they were divided up among
8 several lawyers here and we all went to work suing
9 people on them.

10 Q You just referred to a memo. Is that the
11 September 25, 1987 memo of your law firm to the
12 Federal Home Loan Bank of Dallas?

13 A '87.

14 Q '87.

15 MR. PORTNOY: Is there a Bates number?

16 MR. NAPPI: There isn't a Bates number,
17 unfortunately. This is a committee highly
18 confidential document. It was part of an RTC memo
19 regarding their analysis of the Mitchell, Williams
20 law firm's work for Madison Guaranty. I will put it
21 in the record as Exhibit 1.

22 THE WITNESS: Ms. Bartley's letter is

32

1 Exhibit 1.

2 MR. NAPPI: Let's go off the record for a
3 moment.

4 (Discussion off the record.)

5 MR. NAPPI: The September 25, 1987
6 Mitchell, Williams memo to the Federal Home Loan Bank
7 in Dallas is Exhibit 1 for this deposition.

8 (Miller Exhibit 1 identified.)

9 BY MR. NAPPI:

10 Q Could I direct your attention to it,
11 Mr. Miller?

12 A Exhibit 1 is what?

13 Q A September 1987 memo or letter, if you
14 will. It is on your law firm's letterhead. It is to
15 the examiner in charge at the Federal Home Loan Bank
16 of Dallas.

17 A All right, sir. I have seen this.

18 Q Have you had an opportunity to review it?

19 A Well, I believe you told Ms. Bartley or
20 someone asked Ms. Bartley to have it available at the
21 deposition. So, since that request, I have looked at
22 it. I have not seen it before then.

1 Q Did this memo refresh your recollection as
2 to any matters that you may have worked on for
3 Madison Guaranty?

4 A Prior to my leaving the firm in July of
5 '87, yes, I recall the Peacocks.

6 Q Which particular matters?

7 A I believe on page -- I'm not sure exactly
8 all of them that I represented. It may be more, but
9 I specifically recall the Peacock Brothers, Inc., dba
10 the Peacock Company on page 3. I know I had some
11 other Peacock-related files, but I don't know exactly
12 which ones they were now.

13 Q With respect to the matters covered in this
14 memo, you only recall specifically working on this
15 Madison Guaranty v Peacock Brothers, this Chapter 11
16 proceeding?

17 A Right. They were all interrelated with all
18 the other Peacock matters. That's the only one I
19 specifically recall.

20 Q Do you have any records that you have
21 maintained that might refresh your recollection of
22 other matters you worked on with respect to Madison

34

1 Guaranty?

2 A No, sir, I do not. I don't know what the
3 firm has, but I do not.

4 Q You said a woman named Pat Heritage was
5 your primary contact at Madison?

6 A Correct.

7 Q Who else at Madison did you have contact
8 with regarding your legal work for the institution?

9 A As I recall, Pat was pretty much it.
10 Anywhere else it needed to go in the institution, she
11 was responsible for that. I would talk to her and
12 she would talk to the other people. So, as I recall,
13 Pat was pretty much it.

14 Q You said "pretty much." You qualify it.
15 Is there anyone else you recall?

16 A I recall a gentleman by the name of Cuffman
17 being there.

18 Q Could you spell that name?

19 A Either C or K-u-f-f-m-a-n.

20 Q Okay. He was another Madison person you
21 recall having contacts with?

22 A I recall him being there. I cannot recall

1 ever having a conversation with him. I know he was
2 there and he was a lawyer, but he wasn't there as a
3 lawyer. Anyway, Pat would talk to him from time to
4 time. Whether I had any direct contacts with him, I
5 do not know.

6 Q What was Pat Heritage's role at Madison?

7 A Pat was what would now be described as a
8 workout officer. After other people would make the
9 loan, they would give them to her, pull the files and
10 provide them to me and we would go down to south
11 Arkansas and foreclose some little house. She would
12 go down there and testify that this was the original
13 note and it has a balance of this much and it is in
14 default and we should be allowed to foreclose. She
15 was the workout officer.

16 Q Prior to beginning your legal
17 representation of Madison, did you know Pat Heritage?

18 A No, sir.

19 Q You mentioned a gentleman named Tim
20 Grooms.

21 A Yes, sir.

22 Q Could you spell that name for the record.

1 A T-i-m and G-r-o-o-m-s.

2 Q And you reported to him regarding Madison
3 matters?

4 A I talked to him about Madison matters. Tim
5 was a year ahead of me here at the firm. He was also
6 doing the same kind of stuff I was doing.

7 Q Same kind of stuff? You mean collection
8 work?

9 A Yes. We would discuss them. He probably
10 had more client contact than I did, but I would
11 discuss them with him.

12 Q I'm trying to understand how you came to
13 work on Madison matters. Now, you say you only
14 recall one specific matter which was the Peacock
15 bankruptcy. Do you recall who assigned you to work
16 on Madison matters at the firm?

17 A No, sir. It would have been the nature of
18 all my other work. Being the first year out, someone
19 would have just said -- we had several bank clients
20 at that time, bank or S&L clients that we did work
21 for. It would have been like all those others;
22 someone would have said we have these files, Lance,

1 go get them, and I would go get them. I would start
2 suing and start repossessing.

3 Q But Madison in particular, do you recall
4 the member of the firm who assigned you to work on
5 the Peacock bankruptcy file?

6 A No, sir. I do not recall who assigned me
7 to work on those.

8 Q And you were reporting directly to no one
9 at the firm regarding that matter?

10 A Not that I recall. I mean, no, I was not
11 reporting, saying today here I filed this lawsuit,
12 no, I was not doing that. Someone may have been
13 copied on the status reports or something. But that
14 has been a long time ago and I don't recall who that
15 was.

16 Q Do you know if the firm maintains these
17 status reports still from this time period, 1986?

18 A No, I don't know if they do or not.

19 Q Did you have a mentor or a partner who
20 provided guidance to you at the firm?

21 A Mr. Grooms was not a partner, but I guess
22 he would be close to a mentor. At that time, we had

1 a preceptor program. It wasn't so much to control
2 work as it was to maybe advise me of firm matters and
3 things along those lines. That was Mr. Tucker.

4 Q Mr. Tucker? You mean Jim Guy Tucker?

5 A Yes.

6 Q You said it was a preceptor program?

7 A Yes.

8 Q Could you explain what this program was.
9 I'm not sure I followed you.

10 A Well, Jim Guy was, I guess, kind of
11 supposed to be responsible for keeping me square with
12 the partners and keeping me, quote, on track for a
13 partnership, that I was doing things correctly and
14 evolving from a new lawyer into some day eventually
15 to be a partner. He was supposed to kind of guide me
16 along that track.

17 So, I mean, we had, as I recall, associate
18 evaluations kind of once a year, and the partners
19 would all talk about associates. Jim Guy would call
20 me in once a year and basically say you are doing
21 good, keep doing what you are doing, don't screw up,
22 and that would kind of be our preceptor meeting.

1 Q Did you meet with him regularly, "him"
2 being Mr. Tucker?

3 A Yes. Our offices weren't far away. I
4 talked to him about other matters. We had lunch. We
5 got together a few times, yes. I met with him.

6 Q Did you know Mr. Tucker before you joined
7 the firm as a clerk?

8 A No, sir.

9 Q You met him through your work at Mitchell,
10 Williams?

11 A Yes, sir.

12 Q And you had a social relationship with him
13 and he was your mentor in this preceptor program?

14 A Yes, and I don't know if you could call
15 it -- we had a social relationship. We know each
16 other, yes. But I don't go out socially with him,
17 no.

18 Q If we could focus on the firm's
19 representation of Madison in these lawsuits against
20 Charles Peacock and the Peacock controlled
21 businesses, was there an attorney at your law firm
22 who was responsible for coordination of these

1 lawsuits against Charles Peacock, his family and
2 related businesses?

3 A Not that I recall. Each attorney was kind
4 of doing their particular files and reported back to
5 the client on those matters.

6 Q Was Pat Heritage the contact person for all
7 of these matters?

8 A She was my contact. I don't know about all
9 the others.

10 Q Were there any meetings at the firm
11 regarding the series of lawsuits involving
12 Mr. Peacock, his family and his businesses?

13 A I don't know if they would be formal
14 meetings, but yes, I can recall Mr. Grooms and I
15 meeting kind of about where we were going. Marcie
16 Taylor had some of these. I recall sitting down with
17 Marcie and Tim and, yes, we were all kind of plotting
18 where we were on our particular lawsuits.

19 Q Do you recall meeting with anyone else?

20 A Another lawyer, Lynn Pruitt, may have been
21 involved.

22 Q Could you spell that last name for the

1 record.

2 A P-r-u-i-t-t.

3 Q And Marcie Taylor, that would be
4 T-a-y-l-o-r?

5 A Yes, sir.

6 Q Other than Mr. Grooms, Ms. Taylor and
7 Ms. Pruitt, do you recall speaking with any other
8 Mitchell, Williams lawyers regarding the Peacock
9 litigation, the number of lawsuits filed against
10 Mr. Peacock and his businesses?

11 A No, not that I recall, other than when the
12 allegations occurred that are reflected in my April
13 '87 memo, I recall meeting with Mr. Tucker about
14 those.

15 MR. PORTNOY: I'm not sure that the witness
16 testified that he actually discussed the Peacock
17 matter with Mr. Grooms or Ms. Taylor or Ms. Pruitt
18 but rather Madison matters generally.

19 Did I understand that testimony correctly?

20 THE WITNESS: I'm talking about Peacock.

21 MR. PORTNOY: Okay. My misunderstanding.

22 Thank you.

1 BY MR. NAPPI:

2 Q And Grooms, Taylor and Pruitt also reported
3 directly to their contact at Madison?

4 A I assume that they did. I don't know.

5 Q And there was no lead partner at Mitchell,
6 Williams or no partner with overall responsibility
7 for Madison matters?

8 A I don't know. Not as I recall sitting here
9 can I tell you that it was partner A. I simply do
10 not know, do not recall.

11 Q Generally speaking, did the litigation
12 department hold departmental meetings to discuss
13 ongoing matters?

14 A We held meetings --

15 Q Again, I'm focusing on the time frame 1985
16 through 1987, your first stint with the firm.

17 A We held meetings. I do not believe they
18 were to discuss individual clients like an opening
19 scene of LA Law or something. If I recall, one of
20 our senior partners, Allen Gates, was in charge of
21 the litigation department, being it was more of an
22 educational CLE type thing where we might discuss the

1 rules of procedure, the rules of evidence or things
2 of that nature. I do not recall us specifically
3 sitting down and discussing our files.

4 Q Was Jim Guy Tucker a member of the
5 litigation department?

6 A Excuse me?

7 Q Was Jim Guy Tucker a member of the
8 litigation department?

9 A Yes.

10 Q Was Beverly Bassett-Schaffer?

11 A No.

12 Q What department was she in?

13 A I assume corporate, business department,
14 whatever it might have been called then.

15 Q The department that did transactional work
16 at the firm?

17 A I guess they were in the same department.
18 I don't know -- I don't recall Beverly being a
19 transactional lawyer. She was on that side of the
20 hall with those people, yes.

21 Q Was she a regulatory lawyer?

22 A Sir, I just don't know.

1 Q What about John Selig?

2 A He was on that same side of the hall. He
3 was a transactional lawyer, as best I recall.

4 Q And Breck Speed?

5 A Breck was an associate in John Selig's
6 department, wherever he would have been.

7 MR. NAPPI: Let's go off the record for a
8 minute.

9 (Recess.)

10 BY MR. NAPPI:

11 Q Mr. Miller, I would like to backtrack for a
12 minute, if I may. During the time you were attending
13 University of Arkansas law school, were either Bill
14 or Hillary Clinton teaching at that law school?

15 A I attended the University of Arkansas at
16 Little Rock, which is different than the University
17 of Arkansas law school. That's at Fayetteville. And
18 no, they were not at Little Rock.

19 Q Have you ever been engaged in political
20 activities?

21 A I don't know what you mean by that, but
22 yes, I guess.

1 MR. PORTNOY: I'm going to state for the
2 record that we have been avoiding inquiring into the
3 political affiliations of witnesses.

4 MR. NAPPI: I will defer to Mr. Portnoy on
5 this. I will not ask about affiliation.

6 BY MR. NAPPI:

7 Q Why don't we get into the type of
8 activities. By political activities, I mean have you
9 ever made campaign contributions?

10 A Yes.

11 Q Do you recall the specifics?

12 A No, but I mean, I guess I give to a variety
13 of causes that I feel like I support.

14 Q Do you recall individual candidates to whom
15 you have made campaign contributions?

16 A Not specifically, no. If you want to give
17 me a name, I can tell you whether I did or not.

18 Q Did you ever make a campaign contribution
19 to Governor Clinton?

20 A No.

21 Q Did you make a campaign contribution to
22 Governor Clinton's presidential election campaign?

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1 A No.

2 Q Did you make any contributions to Governor
3 Tucker's?

4 A Yes.

5 Q Do you recall which campaign?

6 A No.

7 Q Did you ever work as either a volunteer or
8 a paid employee of a political campaign?

9 A Yes.

10 Q Could you describe the circumstances.

11 A When I was in high school, I helped get our
12 local representative up there, a guy by the name of
13 Bobby Hogue elected. I went around and put up yard
14 signs. I have done that for other candidates.

15 Q Did you ever do it for Jim Guy Tucker? Did
16 you ever do any campaign-related work for Jim Guy
17 Tucker?

18 A Yes, I did.

19 Q Can you describe the nature of that work?

20 A I guess it was the '90 gubernatorial
21 election. I had just left Jonesboro and made a lot
22 of contacts up there. Jim Guy was going to run

1 against Sheffield or Sheffield wasn't going to run or
2 whatever happened. Jim Guy declared for governorship
3 that year. We traveled to northeast Arkansas on
4 several occasions meeting with people, contacts I had
5 and contacts he had up there in Jonesboro, Paragould
6 and West Memphis.

7 Q What kind of meetings? Fundraisers?

8 A I don't recall any fundraisers. A meeting
9 I do recall with Jim Guy, he met with some teachers
10 up there. He met with some other -- they were my
11 clients when I was practicing law there. I basically
12 introduced them and Jim Guy met with them.

13 We went to a wildlife banquet which was
14 with some other gubernatorial candidates. I remember
15 Sheffield Nelson was there and Tommy Robinson was
16 there. We spoke to a state police association over
17 in West Memphis. Those are the ones I recall.

18 Q So, it was grassroots meetings and debates?

19 A Correct.

20 Q Do you recall any other specific work you
21 did for candidate Tucker?

22 A I put up yard signs, talked to folks I

1 knew, that kind of stuff.

2 Q If I could refer you back to Exhibit 1.

3 A Yes, sir.

4 Q I would like to run through the matters
5 referred to in this exhibit and just try to get a
6 sense of whether you were ever involved in any
7 meetings or contacts with other lawyers at Mitchell,
8 Williams regarding any of these matters. The first
9 matter is Madison Guaranty v Peacock Financial Corp.
10 and Charles Peacock, III.

11 A Right.

12 Q You stated you don't recall working on this
13 matter; is that true?

14 A My present recollection, I do not know
15 whether I worked on this matter or not. Those names
16 sound familiar. I do not know if I was the lawyer
17 responsible for this file or not.

18 Q Do you have any records that would refresh
19 your recollection as to this?

20 A I personally do not have any records, no.
21 I don't know whether the firm has them or not.

22 Q Do you recall discussing this matter with

1 anyone at the firm?

2 A I do not. As I sit here today, I do not
3 recall discussing it. If it was one of the files
4 that I was responsible for, yes, I would have
5 discussed it with Mr. Grooms, Ms. Taylor, just kind
6 of generally where we were on these matters, but I
7 just simply do not recall.

8 Q Okay. With respect to the second matter,
9 Madison Guaranty v Ken Peacock, et al., do you recall
10 any specific work on this matter?

11 A I remember the names all sound familiar. I
12 remember there being a Ken Peacock and a Charles
13 Peacock, III. There was one kid in law school.
14 There was some debate as to whether he was on some
15 notes. Again, the name sounds familiar, but I can't
16 remember whether that was a file I was responsible
17 for or not.

18 Q Any specific recollections of discussions
19 or meetings with any of the other lawyers or members
20 of your firm?

21 A Same as the other. If this was a file I
22 was responsible for, there would have been where are

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1 we on this, kind of where are we going, I'm having
2 trouble getting this guy served in Fort Smith, do you
3 have any idea how I can do that, blah, blah, blah,
4 those type discussions.

5 Q Those discussions would have been with
6 either Mr. Grooms or Ms. Taylor or Ms. Pruitt, no one
7 else at the firm?

8 A I wouldn't exclude anyone else. Those are
9 the ones I can recall. That was kind of the little
10 core Madison group. There may have been others.

11 Q When you say "core Madison group," as to
12 all Madison matters or collection matters?

13 A Collection matters.

14 Q The next matter is the Chapter 11
15 proceeding that you say you do have a specific
16 recollection regarding.

17 A The only reason I have a recollection is my
18 other memo, so I recall it from that. Without that
19 memo, I don't know that I would even recall that.

20 Q Okay. For present purposes, the only other
21 matter in this memo that I want to direct your
22 attention to is on page 7. It is a matter styled

1 Madison Guaranty Savings & Loan Association v Dixie
2 Continental Leasing, Inc.

3 A That was not mine.

4 Q You are certain of that?

5 A Yes.

6 Q Do you know whose case it was?

7 A I believe it was Marcie Taylor's.

8 Q Why do you believe it was Marcie Taylor's?

9 A I don't know. I just believe that it was.

10 My recollection is that that was one that Marcie was
11 responsible for.

12 Q Have you maintained any records or notes
13 that might refresh your recollection or help you
14 focus?

15 A No, I have not.

16 Q How would you have come to know it was a
17 matter that Marcie Taylor was responsible for?

18 A The way I recall it is that when all this
19 stuff started last summer with the reporter and he
20 handed me back this April '87 memo, I could not have
21 told you who or what Dixie Continental Leasing was.

22 Q By April '87 memo, you are referring to an

1 April 23, 1987 memo?

2 A Yes, and on page 3, the second full
3 paragraph, it says "Hopkins informed Ms. Heritage of
4 Dixie Continental of which Ms. Marcie Taylor has
5 undertaken foreclosure."

6 Q So, prior to that, you had no recollection
7 of Ms. Taylor working on this matter in particular;
8 Dixie Continental, that is?

9 A That's correct. That's my basis.

10 Q Okay. These meetings you referred to with
11 Grooms, Taylor and Pruitt, were they held on a
12 regular basis?

13 A No. Again, you say they are meetings. If
14 you consider two people talking about a lawsuit a
15 meeting, then it was a meeting. I might have been
16 asking someone I have this 1985 Buick I have to
17 repossess and the sheriff is not wanting to do it or
18 I am having trouble getting this guy served, what can
19 we do, or I have this foreclosure set Tuesday in
20 south Arkansas and another hearing in north Arkansas,
21 can you cover one of them, those type of things,
22 asking, discussing with other lawyers. So two people

1 talking, so if that is the meeting, that is the type
2 of things we had.

3 Q All four of you were junior associates?

4 A Yes, if you consider two or three years out
5 junior, and I would.

6 Q Was Mr. Grooms the senior associate?

7 A I don't know how to answer that.

8 Q Had he been at the firm the longest?

9 A No, he had not. He had not. Marcie Taylor
10 was probably the senior being out of law school. I
11 think she and Tim and Lynn all joined the firm about
12 the same time. They were both a year ahead of me at
13 UAR. We were all kind of right there together. He
14 was not my boss or anything like that. He is a smart
15 guy and we all kind of talked to him about things,
16 but he was not in charge that I recall.

17 Q Was Mr. Grooms reporting to any senior
18 attorney at the firm?

19 A I do not know.

20 Q Was Ms. Taylor reporting to any senior
21 attorney at the firm?

22 A I do not know.

1 Q Was Ms. Pruitt reporting to any senior
2 attorney at the firm?

3 A Do not know.

4 Q Do you know who Mr. Grooms reported to at
5 Madison?

6 A No.

7 Q Do you know who Ms. Taylor reported to at
8 Madison?

9 A No.

10 Q Do you know who Ms. Pruitt reported to at
11 Madison?

12 A No.

13 MR. NAPPI: Off the record.

14 (Discussion off the record.)

15 BY MR. NAPPI:

16 Q Mr. Miller, prior to April of 1987, did you
17 ever have occasion to discuss any Madison matter with
18 Jim Guy Tucker?

19 A No, not that I recall.

20 Q Were you aware of Jim Guy Tucker's
21 relationship, business relationship with James
22 McDougal?

1 A No, sir. If he had one, I wasn't aware of
2 it.

3 Q At this time, do you know if the firm was
4 aware of potential conflicts that Governor Tucker had
5 with respect to Madison?

6 A I mean -- can you rephrase your question.
7 I don't know if I'm following you.

8 Q Again, I'm focusing on this time period,
9 the beginning of 1987. Were you aware of any
10 potential conflicts that Jim Guy Tucker had with
11 respect to Madison Guaranty matters?

12 A Was I personally aware of any? No.

13 Q Have you since become aware of such
14 potential conflicts?

15 A Other than may be referred to in this April
16 '87 memo, that's the only thing I'm aware of.

17 Q At this point I would like to direct your
18 attention to a handwritten memorandum. It is dated
19 4/21/87. Again, it is not Bates stamped, but it is a
20 highly confidential committee document that comes to
21 us by way of the RTC. It is Exhibit 10 to an RTC
22 memo regarding the Mitchell, Williams law firm.

1 A All right.

2 Q Do you have a copy of this handwritten
3 memo, Mr. Miller?

4 A Is it on a form that has "conference
5 memorandum" at the top?

6 Q Yes.

7 A That is what we call the green sheet.

8 Q Why do you call them green sheets?

9 A The original is green. We have them
10 produced in pads. They lay by the phone and you make
11 phone notes on them. If it is a conference, you see
12 that it says it is a conference, whether by phone or
13 in your office.

14 Q Can you tell us, this green sheet, are
15 these your handwritten notes?

16 A Yes, sir. It is my conversation with Pat
17 Heritage on April 21st at around 2:05.

18 Q The time is 2:05?

19 A Yes, sir. And the attorney is LM. That's
20 my initials.

21 Q This reflects a telephone call with Pat
22 Heritage?

- 1 A Yes.
- 2 Q What can you recall regarding this
3 conversation? Did Ms. Heritage call you or did you
4 call Ms. Heritage?
- 5 A I don't know. I think Pat called me.
- 6 Q And you were in your office at the
7 Mitchell, Williams firm?
- 8 A Yes, sir.
- 9 Q The telephone number, 374-7777, was that
10 Pat Heritage's number?
- 11 A Correct.
- 12 Q Would it be your practice to write down the
13 caller's number?
- 14 A Yes, it could very well be.
- 15 Q So even if you received a call, you might
16 write down their telephone number?
- 17 A Right.
- 18 Q So, you still don't recall whether you were
19 returning her call or whether she was calling you?
- 20 A No, I don't. My recollection is she called
21 me, because she had had a conversation with Hopkins.
- 22 Q Who is Hopkins?

- 1 A Greg Hopkins, the attorney here in town
2 that represented the Peacocks, making the allegations
3 set forth in this green sheet.
- 4 Q Was this a one-on-one telephone call or was
5 it a conference call?
- 6 A It was one on one with Ms. Heritage.
- 7 Q I would like to run you through the
8 notations on this memo line by line, if we could.
- 9 A All right.
- 10 Q Now, Pat Heritage called you, and did she
11 say why she was calling you?
- 12 A She just had a conversation with Greg
13 Hopkins and he was making all these allegations.
- 14 Q Greg Hopkins was representing Charles
15 Peacock?
- 16 A Right.
- 17 Q Did you find it unusual that he contacted
18 your client rather than you?
- 19 A I find it pretty unethical, but he did it.
- 20 Q Was this the first time he did that, to
21 your knowledge?
- 22 A To my knowledge, yes.

1 Q Did you know Mr. Hopkins at that time?

2 A Yes.

3 Q How did you know Mr. Hopkins?

4 A I just had his Chapter 11 bankruptcy
5 dismissed with prejudice. We had been doing battle
6 in bankruptcy court on lots of other matters. Greg
7 is basically a debtor's lawyer and I am basically a
8 creditor's lawyer. We had gone to court on several
9 matters. On April 8 we had the Peacocks' matter
10 dismissed with prejudice. He wasn't real happy with
11 us.

12 Q What other matters would you have worked
13 with him, Mr. Hopkins?

14 A I don't know. There would be a variety. A
15 lot of people were going broke back then and we were
16 chasing a bunch of them.

17 Q Were they Madison-related matters?

18 A No. Peacock is the only Madison-related
19 matter I recall.

20 Q The first line of handwritten notes, "move
21 underway to disqualify based on JGT." Do you recall
22 what that refers to?

1 A Yes. He said that somebody was going to
2 seek to have us disqualified as counsel for Madison,
3 the somebody being him and the Peacocks, because Jim
4 Guy was a member of the firm, and because he was a
5 member of the firm, any of his business deals would
6 be disqualified, so the firm was disqualified. I
7 found no merit or logic to that argument, but that's
8 what he was saying.

9 Q So, he was alleging that there was a
10 conflict situation here?

11 A That's what he was telling Pat, yes.

12 Q Did Pat Heritage seem concerned that there
13 was a possible conflict?

14 A No, she did not.

15 Q Why was she relating this information to
16 you?

17 A Because Greg had just told it to her, and
18 it was hey, here is what he said, and I wrote it
19 down.

20 Q Did she tell you how much prior to your
21 telephone call she had spoken with Mr. Hopkins?

22 MS. BARTLEY: There was a beep. Could you

1 repeat that.

2 BY MR. NAPPI:

3 Q Did Ms. Heritage tell you when she had
4 spoken to Mr. Hopkins regarding these matters?

5 A It was like that day or the day before. My
6 recollection is she just hung up with him and called
7 me.

8 Q Did she say how Hopkins knew about these
9 potential conflicts or these claimed conflicts?

10 A No. I think Mr. Peacock might have been on
11 the board at one time.

12 Q The board of Madison Guaranty?

13 A Yes.

14 Q Did Pat tell you that or how do you know
15 this?

16 A I think it was in some newspaper articles
17 or maybe even Greg Hopkins told me that. I think I
18 heard that from Greg.

19 Q Had you discussed this issue with
20 Mr. Hopkins before Ms. Heritage called you and raised
21 this issue?

22 A No. It would have been him on the board.

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1 It came up in the context of us pursuing him. It was
2 like gee, how did he borrow this much money, he is on
3 the board. Greg was trying to work an angle to try
4 to get us to back off, is what he was trying to do.

5 Q What makes you say that?

6 A That's what he did. I don't know what
7 makes me say that. That's what he did. Greg, as
8 typical debtor's lawyers do, they want you to stop
9 chasing their client and to try to work a deal with
10 them. That's what he was wanting me to do.

11 It was somewhere in the course of trying to
12 get us to slow down on the foreclosures he admits
13 that Peacock used to be on the board.

14 Q As a background matter, you had already
15 gotten Mr. Peacock's Chapter 11 bankruptcy petition
16 dismissed?

17 A Yes, and I guess to be technical, it was
18 the Chapter 11 petition of Peacock Brothers, Inc.
19 doing business as the Peacock Company, but
20 Mr. Peacock was the main guy who showed up over there
21 and testified and we just cross-examined him, yes.

22 That happened I think on like the 8th,

1 April 8th or something.

2 Q Okay. You represented Madison at this
3 hearing?

4 A It was our motion to have it dismissed.

5 Q And it was a successful motion; you got it
6 dismissed?

7 A Right. The judge gave him the option of
8 converting to a Chapter 11, converting their
9 collateral or having it dismissed with prejudice.
10 They elected to have it dismissed with prejudice.

11 Q You were the attorney responsible for this
12 hearing?

13 A Yes, sir. I went over there by myself,
14 tried the matter and prevailed.

15 Q Do you recall whether this April 8
16 proceeding was heated or the subject of --

17 A I mean, Greg Hopkins and I, it was an
18 adversarial type proceeding. He was trying to
19 maintain it and I was trying to get it dismissed.
20 Greg had called previously trying to work some deals,
21 and the hearing date was actually a pressure point.

22 When you chase debtors, you have to get

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1 them in a corner to get anything out of them.
2 Setting the hearing, we had forced the issue. He had
3 been calling previously to try to get the hearing
4 continued and work some kind of settlement. I
5 wouldn't.

6 I said if we would settle it, we would call
7 the hearing off. We never could come to any kind of
8 terms, so we went forward with the hearing. It was
9 contested. We don't hate each other because of it,
10 but as lawyers we did battle that particular day.

11 Q There was nothing out of the ordinary other
12 than a normal adversarial proceeding?

13 A That's correct.

14 Q So, prior to the 8th, there had been
15 settlement negotiations?

16 A Yes. He had been trying to work angles
17 every way he could, yes.

18 Q Did he always contact you directly,
19 Mr. Hopkins? Did Mr. Hopkins always contact you with
20 settlement offers?

21 A No, not always. He had an associate, Karen
22 Queen, over there that I worked with a lot on these

1 matters.

2 Q Could you spell her name.

3 A Q-u-e-e-n.

4 Q But someone from Mr. Hopkins' firm always
5 contacted you rather than another party at your firm
6 or at Madison Guaranty?

7 A As I recall, about this particular Chapter
8 11, yes, they would contact me.

9 Q Was Mr. Hopkins' call to Ms. Heritage that
10 led to your memo of the 21st, was that the first time
11 that Mr. Hopkins had contacted your client directly
12 on this matter?

13 A The first I was aware of. There may have
14 been others, but it is the first I became aware of.

15 Q If I could focus you again on this April
16 21st memo.

17 A All right.

18 Q Again, moving back to the first sentence,
19 "move underway to disqualify based on JGT." Did you
20 ever follow up on these allegations, look into the
21 potential for conflicts?

22 A As set forth in my little bit more of a

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1 detailed involvement of it, as my memo of April 23rd,
2 I guess it was followed up on. We set out what they
3 asserted to be the conflict. What they asserted to
4 be the conflict was discussed.

5 Q What Mr. Hopkins asserted to be the
6 conflict, which was regarding Mr. Tucker's
7 involvement with Madison?

8 A Right.

9 Q And who did you discuss this with?

10 A As reflected back to this April 23rd memo,
11 which states Tim Grooms and I went and talked to Jim
12 Guy about it, said here is what he said, is there
13 anything to it. Jim Guy said no, there is nothing to
14 it.

15 Again, as stated in the April 23rd memo,
16 Jim Guy indicates all of his dealings with Madison
17 had been disclosed to the FSLIC and appropriately
18 approved. But I suggested that if there was an
19 issue, that I do the memo and present it to John
20 Selig, which is what I did.

21 Q Prior to this call, it had never come to
22 your attention that Jim Guy Tucker had business

1 dealings with Madison Guaranty or its subsidiaries or
2 individuals that were connected to Madison?

3 A That's my recollection, correct. This was
4 the first, as I recall, being any reference to that.

5 Q The next line in this handwritten memo says
6 "Dixie loan went to Clinton campaign." Do you
7 recall what that refers to?

8 A Yes. Hopkins told Pat Heritage and Pat
9 told me that that was an allegation that Peacock was
10 saying -- I assume it was Peacock -- Greg was saying
11 that he had been informed of this Dixie loan, and it
12 later turned out to be Dixie Continental, there were
13 loan proceeds that went to the Clinton campaign.

14 In exchange for that, there was a lease to
15 the state. Hopkins's phrase was "a lot of people
16 going to prison" as a result of that transaction.
17 That's what Greg told Pat and Pat told me.

18 Q Now, you have testified that you were not
19 responsible for the Dixie Continental Leasing
20 matter.

21 A Correct.

22 Q Did Ms. Heritage tell you why she was

1 contacting you if you were not the responsible
2 attorney?

3 A The context, as I recall it, was here is
4 what this guy told me, and she was just relating it
5 to me. That was it.

6 Q Did it seem curious to you that she was
7 calling you referring a matter that you were not
8 responsible for?

9 A Was it curious to me? I'm sorry; I didn't
10 understand your question.

11 Q Were you surprised that she was calling you
12 regarding Dixie Continental Leasing, a matter that
13 you were not responsible for?

14 A No. It didn't surprise me. I mean, it was
15 in the office; all this was going on at the same
16 time. Marcie Taylor was pursuing Dixie Continental.
17 No, there wasn't anything unusual about it at all.

18 Q Do you know if Ms. Heritage ever raised
19 this issue with Marcie Taylor?

20 A No, I do not.

21 Q Prior to this, did Ms. Heritage ever
22 contact you regarding a Madison matter that you were

1 not responsible for?

2 A I don't recall.

3 Q Subsequent to this, do you recall her
4 contacting you on a Madison matter you were not
5 responsible for?

6 A I simply don't recall. The whole context
7 of it was that we were both kind of shocked that --
8 these were some pretty outlandish allegations that
9 Hopkins was throwing around. She was pretty shocked
10 that he called her.

11 He was trying to pull any angle he could.
12 Both of us agreed these were lines. Debtors will do
13 it every day. He was posturing. I have never yet
14 met a debtor that said they were broke; it is always
15 somebody else's fault.

16 He was trying to come up with every angle
17 he could to try to get us from pursuing the
18 Peacocks. We took it in the same vein; this is just
19 some more crap he is throwing out there trying to
20 persuade us to back off. He couldn't persuade me, so
21 he went directly to our client to try to persuade her
22 to do it.

1 Q Were you aware that Dixie Continental was a
2 Peacock entity or a Peacock business?

3 A I don't know. Sitting here today, but for
4 these memos, I don't know that I could tell you
5 that. But I'm sure at the time that I knew that it
6 was at least a Madison-related matter. I didn't know
7 that it was a Peacock-related matter.

8 Q Was Hopkins representing other Madison
9 debtors?

10 A Not that I'm aware of, but I'm sure -- I
11 don't know. I don't know.

12 Q What did Ms. Heritage tell you? Did she
13 seem familiar with the allegations contained in this
14 handwritten memo?

15 A That Greg was telling her about?

16 Q Yes.

17 A No.

18 Q Did she affirm any of the allegations that
19 Hopkins made that are contained in this memo?

20 A Them being true?

21 Q Yes.

22 A No. As I just described, we both took it

1 as more debtor puffery or BS, whatever you want to
2 call it, trying to get us to back off.

3 Q It says the loan went to the Clinton
4 campaign. Did Ms. Heritage describe the mechanics of
5 how these proceeds allegedly went to the Clinton
6 campaign?

7 A No, sir.

8 Q Did she mention an April 1985 fundraiser?

9 A No, sir.

10 Q Did she mention any particular fundraiser?

11 A No, just that Greg told her the Dixie loan
12 went to the Clinton campaign.

13 Q Okay. The next line has a reference to
14 leases to the state.

15 A Right.

16 Q What was Ms. Heritage relating to you?

17 A That's all a continuation, that the Dixie
18 loan went to the campaign in exchange for a lease of
19 Madison property from the state, I guess.

20 Q Did she mention a specific state agency?

21 A No.

22 Q Did she mention a specific Madison

1 property?

2 A No.

3 Q Did Ms. Heritage state that she had looked
4 into whether there had been Madison leases to the
5 state of Arkansas?

6 A I recall she hadn't looked at anything.
7 She had just hung up with Greg and called me and said
8 here are the allegations that this guy is throwing
9 out there. I don't think she had looked at
10 anything. I think as soon as she hung up with him,
11 she picked up the phone and called me.

12 Q Do you know if she called anyone else at
13 your firm regarding these allegations?

14 A No, sir, I do not.

15 Q The next line says "a lot of people going
16 to prison."

17 A Correct.

18 Q What does that refer to?

19 A The same deal up above, that as a result of
20 that kind of deal, that they were kind of going to
21 "blow the lid" on all this, and when it all came
22 out, a lot of people were going to go to prison

1 because of that.

2 Q Who did Ms. Heritage say was going to go to
3 prison?

4 A A lot of people.

5 Q Did she mention any people in particular?

6 A No.

7 Q There is this reference to JGT. Did she
8 mention Jim Guy Tucker as someone who is potentially
9 going to go to prison?

10 A No. That's two different points. "Move to
11 disqualify," that is one allegation. Then they move
12 on to Dixie loan, allegation number 2.

13 Q The first allegation is this alleged
14 conflict. The second is this allegation regarding
15 possible criminal conduct which is the loan proceeds
16 being misused for campaign contributions in exchange
17 for a lease, or at least that was the allegation
18 being made.

19 A Correct.

20 Q The next line says "Greg is going to get
21 out."

22 A Correct.

1 Q What does that refer to?

2 A He was telling her that this thing was
3 going to get so nasty that he had questions whether
4 he would even want to continue being involved in
5 representing people in this, that this deal was so
6 dirty or had the potential to get so dirty that he
7 might consider getting out and not represent the
8 Peacocks anymore.

9 Q Okay. That's what the next line --

10 A That was the reason he was getting out, it
11 was too dirty.

12 Q The next line says "whole deal was just to
13 get billing out."

14 A That's the fourth issue, I guess. Greg was
15 asserting, giving Ms. Heritage his opinion on my
16 representation, I guess the firm's representation
17 that we truly didn't have the best interests of the
18 S&L at heart and all we were doing was churning the
19 work and trying to get billing out; that if we wanted
20 to resolve this, we would try to settle with his
21 client and not keep pushing them like continuing to
22 foreclose them in state court, and she should

1 consider were we actually representing them as we
2 should.

3 Q Did Ms. Heritage seem concerned about this
4 allegation?

5 A Not at all.

6 Q Did she ever discuss concerns about
7 churning with anyone else at Mitchell, Williams?

8 A Not that I'm aware of.

9 Q Beneath that, the next line that begins "I
10 should have."

11 A Yes, sir.

12 Q "I should have not said what I did in
13 bankruptcy court." What does that refer to?

14 A I wish I could recall. I don't know. Greg
15 said that I shouldn't have said something that I said
16 in bankruptcy court, and I cannot for the life of me
17 think of what it was. There are two possibilities,
18 but I just don't know what it was.

19 Q What are those two possibilities?

20 A One was that he kept asserting we had a
21 deal, and he wanted to report the matter to the judge
22 as a settled matter and I wouldn't allow it to be

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1 reported to the judge as a settled matter. My
2 recollection is I told the judge we do not have it
3 settled, we are here for a hearing today, let's go
4 forward with this, Mr. Hopkins well knows that if we
5 have it settled, it would be reduced to writing or at
6 least we would have an agreement in principle. We do
7 not have this matter settled.

8 The only other thing I can recall, there
9 was an allegation that one of the latter Peacock
10 loans was like a -- I don't know. There was a loan
11 made to some Peacock entity right on the eve of
12 bankruptcy and that there was an allegation at one
13 time that they used this \$50,000 loan to pay Greg
14 Hopkins's attorney's fees. That was the other
15 possibility, that I could have told the judge that.

16 Q Could we just back up here. I'm sorry to
17 interrupt.

18 A Sure.

19 Q There was a \$50,000 loan to who?

20 A One of the Peacock entities.

21 Q And did you have evidence that the loan
22 proceeds of that loan to a Peacock entity had gone to

1 Greg Hopkins for his attorney's fees?

2 A I don't know that there was any evidence of
3 that. Someone -- that was in an allegation or issue
4 that was going on then. I think the institution
5 believed that the \$50,000 had gone to pay Greg's
6 attorney's fees for him to put them in bankruptcy.

7 Q What institution?

8 A Madison.

9 Q What was the stated use of this loan, do
10 you recall, the \$50,000 loan in question? Was it a
11 loan for attorney's fees?

12 A No. I don't think -- I think they borrowed
13 the money and then used it for that, as I recall. I
14 don't know what the original stated purpose of the
15 loan was for.

16 Q These were allegations; there was no
17 specific evidence of the use of loan proceeds to pay
18 Greg Hopkins?

19 A Right. But there was some evidence, as I
20 recall, that was like a day or so before they went
21 in. It was --

22 Q What do you mean "when they went in"? When

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1 who went into what?

2 A When Peacock Brothers, Inc., dba the
3 Peacock Company, filed their Chapter 11.

4 Q This loan happened right before that?

5 A That's my recollection.

6 Q And there might have been a discussion of
7 this at the April 8th proceeding?

8 A Yes.

9 Q But you don't recall specifically?

10 A No.

11 Q The last line in here begins "McDougal told
12 Peacock that JGT and McDougal would take care of
13 Peacock."

14 A That's like allegation number 6. It was
15 that -- another Peacock line was that McDougal had
16 promised Peacock that Tucker and McDougal would take
17 care of Peacock and that Madison was basically
18 breaching that promise because we were now demanding
19 that they repay their notes.

20 Q What was meant by "take care of Peacock"?

21 A I don't know. I have no idea. It is what
22 Pat Heritage said and Hopkins said.

1 Q Had Pat Heritage ever worked with Jim
2 McDougal?

3 A I don't know.

4 Q Did she say whether she had any knowledge
5 regarding any of these allegations?

6 A The whole general impression of the
7 conversation was that yes, there was no merit to
8 them. Again, it was all just this puffery. It was
9 just a litany of excuses why his client should not
10 have to pay back these loans.

11 Q Was this the first time you had heard any
12 of these allegations that are contained in this 4/21
13 memo?

14 A That's correct.

15 Q Subsequent to this call, are there any
16 issues that you recall that Ms. Heritage discussed
17 with you on April 21st that are not embodied in this
18 memo?

19 A Other than the extent it may be further
20 explained in my April 23rd typewritten memo. We
21 talked about more than these limited number of words,
22 but this would be my summary and a few quotes of what

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1 was said, and I contemporaneously did the April 23
2 memo, which would have further flushed out each one
3 of those points.

4 Q And these allegations, were they news to
5 you at this time, on April 21, 1987?

6 A Yes, sir. As we have talked earlier,
7 that's the first time I heard any of this.

8 Q Again, we have this phone call -- to the
9 best of your recollection, Pat Heritage called you?

10 A Yes, sir.

11 Q She simply repeated these allegations?

12 A Yes, sir.

13 Q You said thank you very much. Did you tell
14 her you were going to do any follow-up?

15 A No. It was just like, well, Pat, is there
16 anything to any of this crap? As I recall, the
17 response was no, this is the first I ever heard of
18 this, there is nothing to any of it, let's proceed
19 ahead. Then I went and discussed it with
20 Mr. Grooms. We discussed it with Mr. Tucker, did the
21 memo and presented it to Mr. Selig. Everybody that
22 considered it thought it was debtor BS and puffery,

1 and we proceeded on with the litigation.

2 Q How long did this telephone conversation
3 last, the April 21st conversation with Pat Heritage?

4 A Mr. Nappi, I don't know. I don't know, it
5 was 3/10, something like that.

6 Q 3/10?

7 A We discussed a number of things. Fifteen
8 minutes to a half hour. I don't know. It didn't go
9 on for an hour or more, no.

10 Q Was this the only matter -- were these
11 allegations, Hopkins allegations, were they the only
12 matter discussed during this telephone call?

13 A As I recall, yes. She had just got off the
14 phone with Greg. The next call was to me, hey, here
15 is what that guy said.

16 Q This call may have lasted as long as a half
17 hour?

18 A I don't believe it would be that long. I
19 really don't know. Somewhere in the 3/10, 15
20 minutes, 25 minutes, somewhere in that range. I
21 don't know.

22 Q These were the only notes you took of this

1 meeting, of this 15-minute phone call, this one page
2 of notes?

3 A Yes, sir.

4 Q Pat Heritage did not provide any further
5 information?

6 A No, sir, not that I know of, not that I
7 recall.

8 Q Did it seems strange that Hopkins would
9 contact your client rather than you as her attorney
10 or Madison's attorney?

11 A Yes. As we talked before, he shouldn't
12 have. Probably under the ethical rules, he probably
13 shouldn't have contacted my client. Again, it fit
14 the scenario of all of these allegations. He knew it
15 wasn't going to work on me, I wasn't going to back
16 off, I was going forward, and if he had any chance of
17 getting anybody to back off, maybe he could convince
18 Pat to back off. So I guess he called Pat. That was
19 my impression why he called her. He couldn't get
20 anything from me, so he went around me directly to
21 the client.

22 Q Did this anger you?

1 A I was more pissed about the general
2 allegations about the firm having this conflict and
3 churning the bills and that kind of stuff. But yes,
4 I was also upset that he went straight to the client,
5 yes.

6 Q Did you call him and confront him about
7 that?

8 A No, I did not.

9 Q Did you ever call him and discuss any of
10 these allegations?

11 A No, I did not.

12 Q Did you ever discuss in any context any of
13 these allegations?

14 A No, I did not.

15 MS. BARTLEY: Excuse me --

16 THE WITNESS: You mean with Mr. Hopkins?

17 BY MR. NAPPI:

18 Q With Mr. Hopkins.

19 A I did not.

20 MS. BARTLEY: Thank you.

21 BY MR. NAPPI:

22 Q You never asked Mr. Hopkins what he meant

1 when he said people are going to prison?

2 A No, I did not.

3 Q Did you discuss these allegations with
4 anyone at Mr. Hopkins's firm, the allegations
5 contained in this April 21, 1987 memo?

6 A Not that I recall, no. Words are cheap. I
7 would just as soon -- we had a lawsuit, and this
8 stuff didn't have anything to do with the lawsuit. I
9 would just as soon let the actions of the litigation
10 speak for themselves as opposed to trying to get from
11 him something I considered just to have no merit
12 whatsoever.

13 Q Did Pat Heritage tell you there were
14 potential problems with campaign contributions to the
15 Clinton campaign from Madison Guaranty?

16 A No, she did not, other than as reflected
17 that Greg said there was an issue there. She didn't
18 identify a separate issue.

19 Q Did Pat say whether she was going to run
20 down any of these allegations with anyone at Madison?

21 A That's my general impression, that yes, she
22 was going to follow back up with her people and see

1 if there was any merit. She was going to follow up
2 on it. She wasn't going to stick it in her drawer
3 and forget about it.

4 Q Do you know if she followed up on it?

5 A No, sir.

6 Q Who was her superior at Madison at this
7 time?

8 A I don't know. Like I said, Mr. Cuffman I
9 know was there. I don't know -- my recollection is
10 she reported to him. There was also a Ms. Sarah
11 Hawkins there. Maybe she reported to Sarah. I'm not
12 sure.

13 Q At this time, was John Latham affiliated
14 with Madison Guaranty?

15 A I don't know. That's a name I have heard
16 before. He could have been.

17 Q Was Jim McDougal affiliated with Madison?

18 A Not that I recall. I believe Mr. McDougal
19 was no longer there.

20 Q Do you know if Ms. Heritage ever discussed
21 these allegations with Mr. McDougal?

22 A Not that I know of. I simply do not know.

1 I just don't know.

2 Q Do you know if she ever discussed them with
3 Mr. Latham?

4 A No, sir. I don't know who she discussed
5 them with.

6 Q Did she discuss these allegations with Jim
7 Guy Tucker?

8 A I don't know. No, sir, I don't know.

9 Q Did she discuss the allegations contained
10 in the April 21st memo with anyone at Mitchell,
11 Williams?

12 A I don't know, other than me. My
13 recollection of it was she told me and I was going to
14 discuss it with the people on this end and she was
15 going to follow up on her end.

16 Q Do you know if Ms. Heritage ever brought
17 these allegations to the attention of anyone in
18 Governor Clinton's office?

19 A No, sir. Again, I don't know who she
20 talked to.

21 Q Do you know if Ms. Heritage ever brought
22 the allegations contained in the April 21st memo to

1 the attention of any of Governor Clinton's agents or
2 political assistants?

3 A No, sir. Same answer. I don't know who
4 she discussed it with.

5 Q Do you know of Ms. Heritage discussed this
6 matter or these allegations with anyone, other than
7 yourself?

8 A No, sir.

9 MR. NAPPI: Off the record.

10 (Recess.)

11 BY MR. NAPPI:

12 Q Mr. Miller, Ms. Heritage called you with
13 these allegations on the 21st. It is your testimony
14 that you did not probe for more information on these
15 issues? They are allegations of conflicts of
16 interests, of churning, of possible criminal
17 conduct. But you just basically took down the
18 allegations as she related them to you?

19 A I took them down. I took down the base
20 allegations that Greg related to her. No, we
21 discussed every one of the points.

22 MR. PORTNOY: "We"?

1 BY MR. NAPPI:

2 Q "We" being you and Ms. Heritage?

3 A On the phone that day, to the extent we
4 knew anything about them.

5 Q What specific concerns did Ms. Heritage
6 raise?

7 A Neither one of us really knew enough to
8 raise anything. It was basically this is what
9 Hopkins said that he was considering. Let's take the
10 first one, considering trying to disqualify the
11 Mitchell firm from representation of Madison because
12 of Jim Guy. We discussed what is there, how is it
13 related if Greg alleged Jim Guy had loans there.

14 I have loans at institutions. We all do.
15 How does that disqualify me and disqualify the firm
16 from representing the institution?

17 We ran through all this stuff. The limited
18 information we had, there was no basis to any of it.
19 We dismissed it as his puffery and moved on.

20 Q I know I asked you this, but just to
21 clarify, Ms. Heritage did not describe who the people
22 going to prison were, referring to the language you

1 use in your memo?

2 A Right. He said a lot of people and it was
3 related to that Dixie Continental/Clinton
4 campaign/lease to the state allegation. Whoever it
5 was that did that deal, in Hopkins's opinion, that
6 was such a bad deal, people were going to go to
7 prison because of that deal.

8 Q But you do not recall discussing the
9 allegations relating to the Dixie Continental loan
10 with Marcie Taylor?

11 A No, I don't recall that. I wouldn't rule
12 that out as a possibility, but I don't recall talking
13 to Marcie about it.

14 Q What did you do after concluding this April
15 21st telephone call with Pat Heritage regarding the
16 substance of the call? What happened next in this
17 progression?

18 A As I recall, I went into Tim Grooms's
19 office and said here is what Pat said Greg said. I
20 had my green sheet in my hand to refresh my memory.
21 He said well, that is some pretty serious
22 allegations, let's go talk to Jim Guy. Jim Guy's

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1 office was down the hall. We trotted into Tucker's
2 office. Jim Guy, here we are, here is the deal, we
3 represent Madison suing Peacock, just got him kicked
4 out of bankruptcy, Hopkins calls our client and here
5 is what he is saying and laid out that conversation.

6 Q You went to Tim Grooms immediately after
7 the phone call ended?

8 A I don't know if it was immediately or not.
9 I know I discussed it with him at some point. I
10 don't know whether I worked on another file and then
11 talked to Tim.

12 Q Was it that same day?

13 A Yes.

14 Q Did you discuss this matter with anyone
15 else before you talked to Tim Grooms? By "this
16 matter," I mean the allegations contained in this
17 April 21st memo.

18 A I doubt very seriously if I did.

19 Q Did you discuss it with anyone else after
20 you discussed it with Mr. Grooms?

21 A Mr. Grooms and I discussed it with
22 Mr. Tucker.

1 Q Prior to discussing it with Mr. Tucker, you
2 did not discuss it with anyone else?

3 A Not that I recall.

4 Q Why did you go to Mr. Grooms?

5 A Again, he was involved in the Madison
6 representation as well. He was a year my senior. He
7 was a lawyer that I discussed issues with from time
8 to time. This was one I wanted to bounce off
9 somebody, because this pile of crap had just been
10 laid in my lap and I wanted to discuss it with
11 somebody.

12 Q You don't recall discussing any of these
13 allegations with Lynn Pruitt?

14 A Not that I recall.

15 Q Marcie Taylor?

16 A Not that I recall.

17 Q So, you discussed the matter with Tim
18 Grooms. Did he affirm any of the allegations
19 contained in your April 21st memo?

20 A No, sir. My recollection is that's the
21 first time he had heard of it as well. We both
22 concluded it was more puffery or BS on Hopkins's

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1 part. But Jim Guy's office was down the hall. Let's
2 go get it from the horse's mouth, and we walked down
3 and talked to Jim Guy about it.

4 Q Was Grooms involved at all in the Dixie
5 loan litigation or the Dixie Continental Leasing
6 litigation?

7 A Looking at your Exhibit 1, the examiner's
8 note, it is my recollection that at some point after
9 I left the firm in '86-87, it appears there were some
10 pretty substantial settlement conversations, and I
11 think Tim assumed the role of trying -- we are going
12 to get all the lawyers that were working on it, Tim
13 was going to go back and be like the focal point and
14 try to deal with Hopkins to work out all of these
15 loans.

16 Q "All these loans" being all the
17 Peacock-related loans?

18 A Right, individual, yes.

19 Q This was subsequent to this conversation on
20 April 21st of '87?

21 A Right. But even then, Tim as of April of
22 '87 was aware of what I was doing for Madison, was

1 aware of what Lynn was doing for Madison and Marcie.
2 He probably had some of his own going on at that
3 time.

4 Q So, Tim was managing -- specifically in
5 April of '87, Tim was managing --

6 A He was not officially assigned the
7 management of this client, no.

8 Q Was he functioning as a manager for this
9 debt collection litigation?

10 A I talked with him about what I was doing.
11 I know Marcie talked to him from time to time. But I
12 mean -- I don't want to mislead you. No, I don't
13 think you would call him a manager. He was just a
14 guy around here that had some experience doing the
15 same kind of stuff we were doing. All of us from
16 time to time would bounce stuff off of him.

17 Q How soon after talking to Tim Grooms about
18 this conversation with Pat Heritage did you go and
19 talk to Jim Guy Tucker?

20 A I think immediately upon concluding it, we
21 walked down the hall, and as I recall, we found Jim
22 Guy to be in his office. We did it immediately.

1 Q Do you recall that conversation?

2 A I don't have any recall of it other than as
3 reflected in this April 23rd typewritten memo.

4 Q When you laid out these allegations
5 regarding conflicts of interest, did Mr. Tucker
6 apprise you of his situation with Madison?

7 A Other than he had some loans with Madison.
8 Again, it is all stated on page 4 of that memo. That
9 is -- that was my present recollection at the time.
10 There is no sense trying to restate it. It is stated
11 there.

12 MR. NAPPI: Maybe we should focus on this
13 memo then. This will be Exhibit 3.

14 (Miller Exhibit 3 identified.)

15 BY MR. NAPPI:

16 Q It is a memo dated April 23, 1987. It is
17 to JSS from LM. It is re: Madison v Peacock.

18 This is the memo you have referred to on
19 several occasions?

20 A It is to Mr. Selig from me stating the
21 matter.

22 Q Okay. This memo is dated April 23rd. Do

1 you recall if you talked to Jim Guy Tucker on April
2 23rd or was it prior to April 23rd?

3 A On page 4, it indicates clearly we talked
4 to him on April 21st.

5 Q So, there was an intervening day between
6 the telephone conversation and your conversation with
7 Grooms and Tucker and the preparation of this memo?

8 A What happened was I dictated it either -- I
9 dictate everything I do. I suspect I dictated it on
10 the 21st and it laid on my desk during the 22nd or I
11 may have looked at it in the draft form on the 22nd.
12 Probably it was not finalized into this memo copy
13 until the 23rd.

14 Q When you talked with Mr. Tucker on the
15 21st, did you know that he was friendly with Jim
16 McDougal?

17 A I don't know what you mean by "friendly
18 with" McDougal.

19 Q What was your understanding of the nature
20 of his relationship with Mr. McDougal?

21 A I didn't know he had one.

22 Q Did you know if he knew Jim McDougal?

1 Again, I'm referring to at the time of these events
2 in April of 1987.

3 A I really don't know. I just don't know
4 whether he was or not.

5 Q When you laid out these allegations for
6 Mr. McDougal -- excuse me. When you laid out these
7 allegations for Mr. Tucker, did he seem concerned?

8 MS. BARTLEY: Wait a minute. The phone
9 beeped again. Could you ask the question again,
10 please.

11 MR. NAPPI: Sure.

12 BY MR. NAPPI:

13 Q When you met with Mr. Tucker regarding the
14 allegations Ms. Heritage had forwarded to you, did
15 Mr. Tucker seem concerned?

16 A My recollection is no, that he was just
17 kind of, I guess, offended that someone would accuse
18 him or assert that his personal transactions would be
19 an issue in the Peacock litigation, and basically
20 again, it is set out there, that he told us all this
21 stuff had been disclosed. He was not shocked, he
22 wasn't --

1 Q Was he angry?

2 A I mean, he wasn't happy that somebody was
3 making accusations against him. But no, I don't
4 think he was angry.

5 Q Now, you are referring to the conflict of
6 interest allegations. Did you discuss with him the
7 allegations regarding the Dixie Continental loan
8 proceeds?

9 A I don't know if we did or not. I just
10 don't recall. I know we did the sixth issue, that
11 Tucker and McDougal were going to take care of
12 Peacock.

13 Q What did he say regarding that allegation?

14 A He never heard such a thing, didn't know
15 anything about Peacock. He had no arrangement to
16 take care of anybody.

17 Q Did you ask him about his relationship with
18 McDougal and Peacock?

19 A I told him the allegation that had been
20 asserted. He responded and assured us there was no
21 merit to it.

22 Q What about the allegations regarding

1 churning of bills by Mitchell, Williams; did you
2 discuss this with him?

3 A I do not recall. I don't know.

4 Q You go and you tell him, look, he said
5 that, according to Pat Heritage, that you and
6 McDougal are going to take care of Peacock. Did he
7 ask you what you meant by "take care"?

8 A Did he ask me what was meant by "take care
9 of"?

10 Q Yes.

11 A No, not that I recall.

12 Q You told him this is the allegation, that
13 you and McDougal are going to take care of Peacock,
14 and he said no, we are not going to take care of him?

15 A No. He didn't say that. It was basically,
16 as I recall, that he never heard of such an
17 allegation, there was no merit to any such
18 allegation.

19 Q I'm not sure what the allegation was that
20 you expressed to Mr. Tucker.

21 A As stated in my phone message, that Tucker
22 told Heritage that Heritage told me that -- that

1 Hopkins said to Heritage and Heritage repeated to me
2 that according to Peacock, that McDougal and Tucker
3 were supposed to take care of Peacock. I didn't
4 understand what was meant by that, but that's what I
5 relayed to him because that was the allegation that
6 had been said.

7 As I recall, Jim Guy's response was
8 basically I don't know what the hell they are talking
9 about, I have never heard of such an allegation,
10 there is no merit to it, I can assure you I have no
11 arrangements to take care of McDougal or Peacock.
12 That was it.

13 Q But you did not know what "taking care of
14 Peacock" meant?

15 A No. But I mean in the context of us suing
16 him, it had to have -- it has a normal meaning of not
17 allow the foreclosure to occur or whatever. That was
18 their words, not mine, "take care of."

19 Q I understand, I understand. Did you ask
20 Mr. Tucker whether he had had any contacts with
21 McDougal or Peacock?

22 A No.

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1 Q Were you aware of him being involved in any
2 of these Madison-related lawsuits?

3 A Was I aware of Tucker being involved in any
4 of the Peacock-related lawsuits?

5 Q Yes, Tucker in his role as a lawyer at
6 Mitchell, Williams.

7 A No, I don't believe he was.

8 Q This was the first time you were aware or
9 this was the first time that you are aware of Jim Guy
10 Tucker being engaged in any capacity with respect to
11 any of Madison's litigation?

12 A Me personally, yes, as best I recall back
13 from '87.

14 Q And your April 23rd memo fairly captures
15 the conversation that you had with Mr. Tucker?

16 A Yes, sir, and my impressions of those
17 conversations, yes.

18 Q Is there any information that is not
19 contained in this memo that you recall?

20 A No, sir, not that I recall.

21 Q Now, this is a memo to Mr. Selig, is it
22 not?

1 A Yes, to John Selig.

2 Q Why did you write the memo to John Selig?

3 A Because Tucker suggested that I do that.

4 Q He specifically mentioned Selig?

5 A Yes. That's what it says on page 4.

6 Q Where it says "Jim Guy suggested I draft
7 this memorandum to inform you of the statements made
8 and solicit your advice regarding the allegations
9 made by Mr. Hopkins"?

10 A Yes.

11 Q Why did Mr. Tucker suggest to you you talk
12 to Mr. Selig?

13 A I have no idea. On your Exhibit 1, John
14 Selig also signed this letter to the Home Loan Bank
15 Board. Maybe he was the guy dealing with the Home
16 Loan Bank Board. I don't know.

17 Q Did Mr. Tucker ask you to let anyone else
18 know about this call?

19 A No, sir.

20 Q It is your recollection that this
21 conversation with Mr. Tucker in April of '87 was the
22 first time you had heard of what you describe in this

1 memo, his substantial involvement with Madison?

2 A Does it say "substantial involvement with
3 Madison"?

4 Q Yes.

5 A Okay.

6 Q This is the first you heard of his business
7 relationship with Jim Guy Tucker or Jim McDougal?

8 A As I recall, it was the first I was aware
9 that Jim Guy had a relationship with Madison. As to
10 his relation with McDougal, I don't know that I had
11 any understanding as to what that was then or now.

12 Q Did Jim Guy Tucker mention clearing his
13 business relationships through the firm's conflicts
14 committee?

15 A No, he did not mention that. I don't know
16 that I understand your question. Run it through the
17 conflicts system before he borrows money from
18 anybody?

19 Q Yes.

20 A No, we didn't talk about anything like
21 that.

22 Q So he didn't mention any contacts he had

1 with any of the firm members regarding potential
2 conflicts he had with Madison or McDougal?

3 A He said what is reflected back in the April
4 23rd memo, that his personal financial transactions
5 had been fully disclosed and our representation had
6 been approved by the FSLIC.

7 Q Page 1 of the memo, third paragraph refers
8 to "substantial wrongdoing regarding the prior
9 administration of Madison." Do you recall who that
10 reference was to?

11 A No. Whoever was there before.

12 Q Was it to Jim McDougal?

13 A I don't know. I would think if someone
14 said Jim McDougal, I would have put down Jim
15 McDougal.

16 Q Did Mr. Tucker ask you about this?

17 A No.

18 Q Did he ask you who is allegedly going to
19 prison and what the -- did he ask you who was
20 allegedly going to prison?

21 A No. I don't know whether, from the phone
22 conversation, I even told Jim Guy about the Dixie

1 Continental stuff.

2 Q Excuse me?

3 A I don't even recall from the phone
4 conversation, the follow-up meeting with Jim Guy if I
5 even discussed with him the Dixie Continental stuff,
6 those allegations.

7 Q You are not certain if you did discuss
8 those allegations with Mr. Tucker?

9 A That's correct.

10 Q Those discussions are summarized on page 3
11 of your memo.

12 A Correct.

13 Q So -- you previously testified that this
14 memo embodied what you told Mr. Tucker. You are not
15 certain of that?

16 A Sir, I'm confused or you are confused. I
17 don't recall exactly what I talked to Jim Guy about.
18 This memo shows that he was provided a copy of it.
19 He is cc'd on page 4. The best of my recollection is
20 that when I went to talk to Jim Guy -- Pat Heritage
21 called, I visited with Tim and we went to see Jim
22 Guy. The best of my recollection is that Tim and I

1 discussed with Jim Guy those allegations against
2 him. I see on my green sheet, the phone messages,
3 the first one and the last one. When I did the memo,
4 I did the memo on everything and he was copied on
5 that memo.

6 No, I can't tell you here whether or not I
7 discussed allegation number 2 with Mr. Tucker.

8 Q Okay. But Mr. Tucker received a copy of
9 this memo?

10 A Yes, sir.

11 Q Do you know if Mr. Tucker read this memo?

12 A I assume he did, but I do not know that.

13 Q What happened to page 2 of this memorandum,
14 the April 23rd, 1987 memorandum?

15 A It is misnumbered, since it all flows the
16 same. The text flows, so I assume she just
17 misnumbered it.

18 Q You are not aware of there being missing
19 text from this memo? This is the complete memo that
20 you prepared?

21 A The best of my recollection, it is. I did
22 it in '87 and it stayed in the file until the

1 reporter handed it back to me in July or August of
2 '95.

3 Q When the reporter asked you to look at it,
4 did you look at the file copy you had?

5 A I looked at a copy we had, yes. Our copy
6 matched his copy. Our originals, I guess, have been
7 turned over to one of you government guys.

8 Q Do you recall what file you found the copy
9 of this memo in?

10 A Madison Peacock.

11 Q Do you have a file number for that?

12 A Probably somewhere. It looks like it would
13 be 5615-18.

14 MR. NAPPI: Could you confirm that for us
15 after the deposition?

16 MS. BARTLEY: We can do that. You want us
17 to confirm the file number?

18 MR. NAPPI: Please.

19 MS. BARTLEY: All right.

20 BY MR. NAPPI:

21 Q Mr. Miller, do you have personal files on
22 other matters you worked for on Madison -- other

1 Madison matters you worked on?

2 A That I have? No.

3 Q These would be in the firm's general files?

4 A Yes. They would be in the firm's Madison
5 files. They wouldn't be in -- anything that I work
6 on, there is a file, and that would be in the firm's
7 files, yes. I don't have personal files. I have
8 personal files on personal matters, not on client
9 matters.

10 Q Your firm's Madison files are still in
11 existence?

12 A Yes, sir, to the best of my knowledge, a
13 copy of them anyway. Again, the originals have been
14 turned over to somebody.

15 Q Okay.

16 If I could direct your attention to page 4
17 of your memo.

18 A Yes, sir.

19 MR. PORTNOY: For the record, page 4, it is
20 enumerated page 4 but it is the third page of the
21 memo.

22 MR. NAPPI: Exactly.

1 BY MR. NAPPI:

2 Q The third page of your memo.

3 A I'm with you.

4 Q The first full paragraph, last sentence.

5 A All right.

6 Q "I'm greatly offended that Mr. Hopkins has
7 imputed that Mr. Tucker is in some way involved with
8 the fraudulent dealings." What fraudulent dealings
9 are you referring to here?

10 A I assume that's a reference to that last
11 allegation there that somebody was going to take care
12 of Peacock.

13 Q And that's an allegation that you discussed
14 with Mr. Tucker and he dismissed?

15 A Yes, sir.

16 Q How long did your conversation with you,
17 Mr. Grooms and Mr. Tucker last?

18 A I do not recall. It wasn't lengthy at
19 all. Maybe -- after all these years, looking back,
20 my recollection is it was no more than 10 minutes,
21 maybe five.

22 Q What did Mr. Tucker ask you to do as a

1 follow-up to this meeting?

2 A As reflected in the memo, he asked me to
3 advise John Selig of all these allegations.

4 Q Did he ask you to advise anyone else about
5 these allegations?

6 A No, sir.

7 Q No one outside of the firm?

8 A No, sir.

9 Q Did Mr. Tucker make it clear he would
10 follow up with Mr. McDougal regarding these
11 allegations?

12 A No. Where do you get that? No. It was
13 nothing like that.

14 Q Did Mr. Tucker indicate that he was going
15 to follow up on these allegations with anyone else
16 outside the firm?

17 A No, sir.

18 Q Did Mr. Tucker indicate what you should
19 report to Mr. Selig? We have six allegations here.
20 Did he want you to report all of these allegations?

21 A Again, as reflected in the memo, he said to
22 basically disclose everything, someone is making

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1 allegations, put it down and tell John Selig about it
2 all. That's what I did.

3 Q And you are not certain why he wanted you
4 to tell Mr. Selig, that being Mr. Tucker?

5 A The only -- I don't remember John's
6 involvement. I assume for some reason he was
7 involved with Madison some way, and Jim Guy, he was
8 assuming he was the guy in charge of Madison, and
9 that's why I should tell John because he was the guy
10 dealing with the Home Loan Bank Board.

11 Q Is it your recollection that John was the
12 attorney responsible for Madison matters?

13 A That is -- no, that's not my recollection.
14 It is based solely on the fact he signed your
15 September 25, '87 memo. That is my conclusion by
16 putting those two together.

17 Q Prior to the staff directing your attention
18 to that memo, did you have any recollection that
19 Mr. Selig was the managing attorney for Madison
20 matters?

21 A I don't as I sit here. I don't know -- no,
22 I don't as I sit here. I just don't recall back then

1 who was responsible for Madison. My job was to
2 collect loans. That's what I was doing. If there
3 were other Madison matters going on, it didn't
4 involve me.

5 Q Did you discuss the allegations that
6 Ms. Heritage forwarded to you with anyone at the firm
7 other than Mr. Grooms, Mr. Selig and Mr. Tucker at
8 the time that they occurred, in April of 1987?

9 A Not that I recall.

10 Q Did you meet with Mr. Selig to discuss
11 these allegations or did you just forward him a memo?

12 A The best I recall, I just forwarded him a
13 memo.

14 Q You never talked to Mr. Selig about it?

15 A Did I talk to Mr. Selig about it?

16 Q About the memo.

17 A Not that I recall.

18 Q Do you know if Mr. Selig pursued any of
19 these allegations?

20 A I don't.

21 Q Did Mr. Selig and Mr. Tucker discuss these
22 allegations?

1 A I don't know.

2 Q Again, directing your attention to this
3 April 23rd memo.

4 A Yes, sir.

5 Q I don't see where in this memo there is a
6 discussion of the allegations that Mr. Tucker and
7 Mr. McDougal would take care of Mr. Peacock. Take
8 your time, please, review the memo and tell me where
9 those allegations are summarized.

10 (Witness examined the document.)

11 A I don't see it either, other than on page 4
12 where it just says "Jim Guy reassured us that he has
13 no conflict with regard to his personal transactions
14 with Madison, informed us that a full disclosure of
15 his transaction with Madison has been made to the
16 FSLIC and representation of our firm has been
17 approved." I don't see it here either.

18 Q I would suggest that goes more to the issue
19 of potential conflicts.

20 A You can draw whatever conclusions you
21 want. I don't know. I don't know.

22 Q Did you ever apprise Mr. Selig of the

1 allegations that Jim Guy Tucker and Jim McDougal were
2 going to take care of Charles Peacock?

3 A I don't recall. I don't recall.

4 Q Did Mr. Tucker direct you to not inform
5 Mr. Selig about these allegations that he and
6 Mr. McDougal would take care of Mr. Peacock?

7 A Not in any way, shape, form or fashion.
8 Jim Guy's response was to disclose it, disclose the
9 allegations to John and then seek his advice on where
10 to go from here.

11 Q But you did not seek Mr. Selig's advice?

12 A That's not true.

13 Q Well, you said -- I think you testified you
14 forwarded him the memo but you never discussed the
15 memo with him?

16 A You asked me did we meet about it. I don't
17 recall us specifically meeting about it. This all --
18 again, I'm a first year collection lawyer. These are
19 bigger issues that -- I don't know who John -- he may
20 have picked up the phone and called the person in
21 charge at Madison. I don't know. The allegations
22 were made thirdhand, fourthhand, whatever they were.

1 I reduced them to writing as best I recall and
2 submitted it and at some point thereafter was given
3 the go-ahead that we proceed full steam ahead to
4 collect these loans.

5 Q Mr. Tucker was a partner at the firm, he
6 tells you to follow up with Mr. Selig, another
7 partner. You did not follow up with Mr. Selig other
8 than providing him this memo?

9 A As I recall sitting here today, I know I
10 provided him the memo. We may have very well met
11 about it. I don't recall us specifically meeting
12 about it.

13 Q And Mr. Tucker never told you to --
14 Mr. Tucker never directed you not to tell anyone
15 about the allegations that he and Mr. McDougal would
16 take care of Mr. Peacock?

17 A I know I have answered this a couple times
18 before. There is no basis whatsoever for that
19 statement. He did not. He told me -- I discussed
20 with him the allegations that have been made. He
21 said I can assure you there is nothing -- as
22 reflected in the memo -- there is nothing to all

1 this, but we will be clean and disclose it all to
2 John.

3 Q That's my concern, that this one
4 allegation, the last allegation in your handwritten
5 notes, is not disclosed to John. Were you directed
6 by Mr. Tucker not to disclose this allegation to
7 anyone?

8 A For the fourth time, no.

9 Q Thank you.

10 Do you have any recollection as to why this
11 allegation was not disclosed in this memo?

12 A I assume it was faulty drafting on my
13 part.

14 Q But you don't have any specific
15 recollection as to why this allegation is not
16 disclosed in this memo?

17 A No, sir. The whole gist of my conversation
18 I believe is reflected in my memo.

19 Q These allegations that Ms. Heritage brought
20 to your attention, who at Mitchell, Williams did you
21 discuss these allegations with other than Mr. Tucker
22 and Tim Grooms?

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1 A I don't believe I discussed it with anyone
2 other than Mr. Selig through the memo. At some point
3 thereafter I may have discussed it with Marcie Taylor
4 about Dixie, but I have no recollection of that. If
5 I did, it would have been John Selig, Marcie Taylor,
6 Lynn Pruitt and Tim Grooms and Jim Guy, as all
7 reflected in here.

8 Q After preparing this memorandum, this April
9 23rd memorandum and distributing it to Mr. Selig and
10 Mr. Tucker, did you do any further follow-up
11 regarding these allegations, trying to verify the
12 truth of these allegations?

13 A No, sir, I did not.

14 Q Did anyone at the firm ever try to verify
15 any of the allegations contained in the April 21st or
16 April 23rd memo?

17 A I do not know what anyone else at the firm
18 did or didn't do.

19 Q Did you ever have any contact with anyone
20 at the Arkansas governor's office regarding these
21 allegations?

22 A Then? Now?

1 Q At the time they were made.
2 A No, sir.
3 Q Subsequent to the time they were made?
4 A No, sir.
5 Q Did you ever discuss these allegations with
6 any political aide to Governor Clinton?
7 A No, sir. I was such a peon, I couldn't
8 have gotten in the governor's office.
9 Q Subsequent to April 1987, did you ever
10 discuss it with any political aide to Governor
11 Clinton?
12 A No, sir.
13 Q You never discussed these matters with
14 Governor Clinton, any of these allegations?
15 A No, sir.
16 Q Are you aware of whether Jim Guy Tucker
17 ever discussed any of these allegations?
18 MR. PORTNOY: Asked and answered. He has
19 already said he has no idea what Mr. Tucker did.
20 Go ahead, sir.
21 THE WITNESS: With whom?
22 BY MR. NAPPI:

1 Q With anyone in the Arkansas governor's
2 office.
3 A No, sir, no idea.
4 Q With any political aide of Governor
5 Clinton?
6 A No, sir, no idea.
7 Q With Governor Clinton himself?
8 A No, sir, no idea.
9 Q Do you know if anyone who was employed at
10 the Mitchell, Williams firm in April of 1987 ever
11 discussed any of these allegations with any member of
12 the Arkansas governor's office?
13 MR. PORTNOY: Again, asked and answered.
14 Please answer.
15 BY MR. NAPPI:
16 Q If I asked and answered, I apologize. The
17 record will indicate.
18 A I believe the record would so indicate.
19 But go ahead.
20 Q I do not recall the answer. Could you
21 answer that?
22 A No, sir, I'm not aware of anyone at the

1 Mitchell firm discussing this with anyone else.

2 Q You are not aware of anyone at the Mitchell
3 firm in '87 discussing it with any political aide of
4 Governor Clinton?

5 A That's correct. I'm not aware of any such
6 conversation.

7 Q Did you ever discuss any of these
8 allegations with Charles Peacock?

9 A No, sir.

10 Q Do you know if Jim Guy Tucker ever
11 discussed these allegations with Charles Peacock?

12 A No, sir, I do not know.

13 Q Do you know if anyone at Mitchell, Williams
14 ever discussed these allegations with Charles
15 Peacock?

16 A No, sir, do not know.

17 Q You are not aware of any attempt to track
18 down the use of the proceeds of the Dixie Continental
19 loan?

20 MR. PORTNOY: Other than this committee?

21 THE WITNESS: No, sir. Like I stated
22 before, Pat was going to follow up on her end and we

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1 were going to follow up on this end.

2 BY MR. NAPPI:

3 Q Did Pat Heritage ever get back to you on
4 her follow-up?

5 A I received the word from the client and
6 from the members of my firm that these allegations
7 were such complete and total BS that I was given the
8 instructions to proceed full speed ahead to collect
9 these debts.

10 Q Did Pat Heritage ever get back to you on
11 her follow-up regarding the use of the loan proceeds
12 in question?

13 A I do not recall any specific conversation
14 about the use of these loan proceeds. I do know that
15 it was discussed with Pat that there was no merit to
16 these allegations and for us to proceed full speed
17 ahead to collect the loans.

18 Q Who discussed this with Pat, that you
19 should proceed full speed ahead? Was that a
20 discussion you had with Pat Heritage?

21 A Yes. I assume she discussed it with her
22 appropriate superiors.

1 Q As far as you are aware, no one did any
2 follow-up on whether any Peacock loans were used or
3 any funds of any loan made by Madison to Peacock or
4 any of the entities --

5 A I assume the institution did. I did not.

6 Q But they never responded to you as to
7 whether they looked into loan proceeds being used for
8 campaign contributions?

9 A Again, Ms. Heritage responded there was no
10 merit to these allegations and we should proceed full
11 speed ahead to collect these loans.

12 Q Do you recall when this conversation took
13 place or when she told you this?

14 A No, but shortly thereafter we proceeded to
15 sue them in White County, and this March 25th letter
16 indicates that happened on May 4th.

17 Q You mean the September 25th letter?

18 A Yes, sir. I'm sorry. I assume it was
19 sometime between April 23rd and May 4th, and allowing
20 some time for drafting and all that. So, it was
21 pretty much right afterwards.

22 MR. NAPPI: Okay. Off the record.

1 (Discussion off the record.)

2 MR. NAPPI: We are back on the record.
3 Ms. Bartley had to leave the conference room in
4 Little Rock for a moment. Mr. Miller has suggested
5 at his own initiative that we move forward on this
6 deposition until Ms. Bartley returns.

7 Is that not correct, Mr. Miller?

8 THE WITNESS: That is correct.

9 BY MR. NAPPI:

10 Q Do you recall when Pat Heritage called you
11 and told you to move forward on the Peacock-related
12 litigation?

13 A No, sir. I can only assume from the
14 September 25th memo which reflects the litigation was
15 commenced on May 4th that it was sometime between
16 April 23rd and May 4th.

17 Q Did she contact you personally?

18 A Yes, sir. To the best of my recollection,
19 she did.

20 Q Did you make notes of this conversation?

21 A I don't know whether I did or not.

22 Obviously if they haven't been produced, there are

1 not any.

2 Q I would request, for the record, that you
3 review the relevant firm files and see if you have
4 notes of your follow-up conversation or any follow-up
5 conversation you had with Ms. Heritage regarding the
6 Peacock matters.

7 A Sherry returned. Sherry, I authorized them
8 to go ahead.

9 MR. NAPPI: Sherry, I requested that you
10 search the Peacock files for any notes or memos that
11 Lance did regarding follow-up with Ms. Heritage.

12 MS. BARTLEY: All right.

13 MR. PORTNOY: Is it your understanding, if
14 I might, that the entire file has been turned over?

15 THE WITNESS: My understanding, it has been
16 to the RTC.

17 MR. PORTNOY: Thank you.

18 BY MR. NAPPI:

19 Q Mr. Miller, I want to run through some
20 other Madison-related matters.

21 A All right.

22 Q Are you aware that Mitchell, Williams

1 represented Madison regarding its 1986 Federal Home
2 Loan Bank examination?

3 A No, sir.

4 Q Do you recall having any discussions with
5 anyone at the firm regarding the 1986 examination?

6 A No, sir.

7 Q Were you aware that a special meeting of
8 the Madison board of directors took place at your law
9 firm in July of 1986?

10 A No, sir.

11 Q Subsequent to the 1986 examination of
12 Madison, were you aware of any discussions at the
13 firm regarding Madison's financial condition?

14 MR. PORTNOY: Just for the record, the
15 witness has testified that he was unaware of the
16 meeting, so it would be difficult for him to
17 establish whether something occurred prior to or
18 subsequent.

19 MR. NAPPI: You are right. I stand
20 corrected.

21 BY MR. NAPPI:

22 Q Were you ever a party to any discussions

1 regarding Madison's financial condition?

2 A No, sir, not that I recall. I knew they
3 had some bad loans. Most of my clients have bad
4 loans when I become involved. But I had no idea
5 about the solvency or anything else of the
6 institution.

7 Q Prior to Madison being taken over by the
8 FDIC? Were you aware at the time of -- let me
9 rephrase this.

10 Were you aware in 1989 that Madison had
11 been taken over by the FDIC?

12 A No, sir. Was I then?

13 Q Yes.

14 A Unless I read it in the newspaper or
15 something. I was not back here until August of '89.
16 So I don't know when that occurred. If it happened
17 while I was in Little Rock, I probably read it in the
18 newspaper or something.

19 Q While at Mitchell, Williams -- and again,
20 I'm referring in your capacity as a law clerk and as
21 a practicing attorney -- did you ever work on any
22 matters relating to Castle Grande?

1 A Not that I recall.

2 Q Do you recall any discussions at the firm
3 regarding Castle Grande?

4 A No, sir, not that I recall. I don't think
5 that was a collection matter that I was responsible
6 for.

7 Q Were you involved in the litigation that
8 your firm handled against Seth Ward?

9 A No, sir.

10 Q Did you work on any matters relating to a
11 land development called Campobello?

12 A No.

13 Q Have you ever heard of an individual named
14 Bill Healey?

15 MS. BARTLEY: Spell that last name,
16 please.

17 MR. NAPPI: H-e-a-l-e-y.

18 THE WITNESS: No, sir, I don't know that I
19 have ever heard of that name.

20 BY MR. NAPPI:

21 Q Have you ever heard of a piece of property
22 or a matter referred to as 1308 Main Street?

1 A No, sir, not as related to Madison. This
2 is going to be a weird answer. There was a softball
3 team one time we played in the softball league, there
4 was a group of lawyers that rented a building that
5 was something like 1308 Main Street that played in
6 our league. But not in the Madison context, no.

7 Q During your employment at the Mitchell
8 firm, were you ever involved in a proposed issuance
9 of subordinated debt by Madison?

10 A No, sir. I was a cub collection lawyer.

11 Q Did you ever discuss a proposed issuance of
12 subordinated debt with any of the other attorneys at
13 Mitchell?

14 A No, sir, never heard of such a thing. We
15 had a lot of subordinated debt, but it was just
16 behind somebody else's priority lien. That's all.

17 Q Did you ever discuss with any Mitchell
18 attorneys Madison's proposed establishment of a
19 broker/dealer?

20 A No, sir, never heard of such a thing.

21 Q Do you know anything about the Mitchell
22 firm's work on Madison's proposed establishment of a

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1 broker/dealer?

2 A No, sir.

3 Q Do you know anything about the Mitchell
4 firm's work on any issuance of stock by Madison
5 Guaranty?

6 A No, sir. That would have been totally
7 beyond any scope of my representation.

8 Q Were you ever a party to a conversation
9 with anyone at your firm regarding possible fraud at
10 Madison Guaranty?

11 A No, sir, unless you want to include that in
12 these allegations we have talked about.

13 Q Other than those allegations.

14 A Sir?

15 Q Excuse me?

16 A Other than those proposed allegations?

17 Q Yes.

18 A No. That's the only -- if you even want to
19 call that fraud, that's the only thing I have heard
20 of.

21 Q Did you ever work on any personal matters
22 for Jim Guy Tucker while you were at Mitchell,

1 Williams?

2 A Jim Guy personally, probably not. There
3 may have been one of his business entities that the
4 firm was counsel for his corporation and his wife. I
5 don't know if I worked on any of those, but I could
6 have.

7 Q Do you recall the name of the entity that
8 you are thinking of?

9 A No.

10 Q Was it Castle Sewer and Water?

11 A I don't believe so.

12 Q Are there any records that you could check
13 to refresh your recollection?

14 A Whether I have ever worked on Castle Sewer
15 and Water?

16 Q Yes.

17 A There probably is. Again, it would be one
18 of the records that has been turned over.

19 Q I would ask that you go back and review the
20 relevant file.

21 A What file?

22 Q Is there a file at your firm regarding a

1 personal matter of Jim Guy Tucker's that you reviewed
2 or that you could review?

3 A No, there is not. I'm trying to answer
4 your broad question in that I know at one time Jim
5 Guy had a business interest, and I think it was
6 related to one of his cable companies. We did some
7 work for him on that. I could have worked on a
8 limited, like a research project or even as a law
9 clerk done something on one of those files. But it
10 would have been for that corporate client, not for
11 Jim Guy. It wasn't any Castle Sewer or anything like
12 that.

13 Q Are you certain it was a cable TV concern?

14 MR. PORTNOY: I believe Mr. Miller has
15 testified that he is not even certain that he worked
16 on anything, but that if he did work on anything, he
17 supposes it might have been a cable concern.

18 THE WITNESS: That's correct. I don't even
19 recall working on it.

20 BY MR. NAPPI:

21 Q Do you recall any conversations with any
22 employee of Mitchell, Williams regarding Castle Sewer

1 and Water?

2 A No, sir, none whatsoever.

3 Q Any discussion of legislation regarding
4 deregulation of small sewer and water companies?

5 A No, sir, no, sir. I can assure you.

6 Q Prior to your April 1987 meeting with Jim
7 Guy Tucker, do you recall any other matters you had
8 worked on with Mr. Tucker?

9 A Yes, sir.

10 Q Can you describe those matters? Do you
11 recall the case names?

12 A Yes. There was -- I don't know that I can
13 disclose the case names.

14 MR. PORTNOY: Can we ask the witness
15 whether they pertain in any way, shape or form to
16 specific entities rather than asking him the general
17 question of all matters he worked on?

18 MS. BARTLEY: We would appreciate that. We
19 have a waiver as to Madison matters. We really don't
20 have a waiver as to other clients. I don't want us
21 wandering off in a general way into privileged
22 matters that have nothing to do with Madison.

1 MR. NAPPI: Fair enough.

2 MS. BARTLEY: If you all can understand --

3 MR. NAPPI: I understand.

4 BY MR. NAPPI:

5 Q Prior to April of 1987, did you ever work
6 with Jim Guy Tucker on any Madison-related matter?

7 A None whatsoever.

8 Q Subsequent to April 1987 and the meeting
9 you had with Mr. Tucker, did you ever work with him
10 on any Madison-related matter?

11 A None.

12 Q Did you ever discuss any Madison-related
13 matter with Mr. Tucker other than the meeting that is
14 memorialized in your April 23rd, 1987 memo?

15 A None that I recall.

16 Q Do you know an individual named
17 R.D. Randolph?

18 A No, sir. I think that name has been in the
19 paper, but I don't know who he is.

20 Q Do you recall ever seeing a memo prepared
21 by or any records prepared by the Ingersoll law firm
22 regarding Jim Guy Tucker's investment in Castle Sewer

1 and Water?

2 A No, sir, never heard such thing.

3 MR. NAPPI: I have no further questions.

4 THE WITNESS: Thank you.

5 EXAMINATION

6 BY MR. PORTNOY:

7 Q Good evening, Mr. Miller.

8 A Good evening.

9 Q I have just a few minutes.

10 A This is Jim?

11 Q This is Jim.

12 A All right.

13 Q Last time I looked anyway.

14 With respect to your conversation with

15 Ms. Heritage, let me trace the chain of information,

16 if I might. You spoke to Ms. Heritage and she

17 related to you information that she received from

18 Mr. Hopkins; is that correct?

19 A Yes, sir.

20 Q Do you have any information about where

21 Mr. Hopkins received his information?

22 A My recollection was that Mr. Peacock told

1 him.

2 Q So, in other words, you were receiving this
3 information, in effect, fourthhand?

4 A Yes, sir.

5 Q Do you have any firsthand knowledge
6 regarding any of the allegations that were relayed to
7 you by Ms. Heritage?

8 A No, sir.

9 Q Do you have any information regarding the
10 use of the proceeds of Madison's loan to Dixie?

11 A No, sir.

12 Q Do you have any information concerning the
13 state's lease of office space from Madison Guaranty?

14 A No, sir.

15 Q At the time these allegations were made,
16 you had just defeated Mr. Peacock in bankruptcy court
17 litigation, had you not?

18 A Yes, sir.

19 Q Do you recall his reaction to his defeat?
20 Was he angry? Was he upset?

21 A He and Greg were both upset. The primary
22 collateral was his personal home located on 70 acres

1 in Bald Knob, Arkansas. The very next step was for
2 us to come kick him out of his house. So, yes, he
3 was very upset.

4 Q So, the litigation in which you had
5 prevailed actually cost him his home?

6 A Correct.

7 Q You said that in your view, Mr. Hopkins and
8 by extension Mr. Peacock were trying to avoid the
9 debts to Madison or get out of them?

10 A Correct.

11 Q In your view, would Mr. Peacock have gone
12 so far as to lie in his efforts to get out of those
13 debts?

14 A I mean, I don't like to use that word, but
15 I mean debtors are very creative in their -- they
16 convince themselves that their personal financial
17 problems are everybody else's fault but themselves.
18 They rationalize to themselves that they shouldn't
19 have to pay their debts back. There is always some
20 reason. It was my conclusion that Mr. Peacock had
21 convinced himself that he shouldn't have to pay these
22 debts back.

1 MR. NAPPI: Mr. Miller, you did testify
2 that you never discussed these allegations with
3 Mr. Peacock; is that correct?

4 THE WITNESS: That's correct.

5 BY MR. PORTNOY:

6 Q At the time of your conversation with
7 Ms. Heritage, did you have any reason whatsoever to
8 lend any credence to Mr. Hopkins's allegations?

9 A None whatsoever.

10 Q Do you now?

11 A No, I do not now.

12 Q Mr. Hopkins reportedly stated that he was
13 considering discontinuing his representation of the
14 Peacocks.

15 A Correct.

16 Q Do you know whether he continued to
17 represent the Peacocks?

18 A No, sir. I left the firm in July of '87,
19 and I don't know if he continued or not.

20 Q You don't know that he left, do you? He
21 didn't leave while you were still involved in the
22 matter?

1 A That's correct.

2 Q When did the Peacocks first file their
3 Chapter 11 petition, do you know?

4 A The September 25th, 1987 letter indicates
5 that they filed on September 18, 1986.

6 Q Finally, sir, Mr. Tucker suggested that you
7 prepare a memorandum to Mr. Selig?

8 A That's correct.

9 Q So, he actually wanted you to create a
10 documentary record of these allegations, didn't he?

11 A He told me to prepare a memo to John
12 stating all these allegations that had been
13 communicated to me by Pat Heritage, yes.

14 Q That would seem to be just the reverse of
15 an attempt to conceal the allegations.

16 A There was no attempt to conceal any
17 allegations.

18 Q You have anticipated my final question.
19 Did anyone ever ask you to conceal your conversation
20 with Ms. Heritage or any of those allegations in any
21 way?

22 A Not in any way, shape, form, fashion.

1 MR. PORTNOY: Thank you, sir. That's all I
2 have.

3 MR. NAPPI: Why don't we wrap up? We
4 appreciate your time.

5 Sherry, you wanted to make sure that your
6 December 14th letter --

7 MS. BARTLEY: December 14, 1995 letter from
8 the RTC to H. Maurice Mitchell waiving the
9 attorney-client communications privilege for purposes
10 of your investigation and allowing --

11 MR. NAPPI: We will enter that as
12 Exhibit 4.

13 (Miller Exhibit 4 identified.)

14 MR. NAPPI: We appreciate it again.

15 MR. PORTNOY: You should be aware that
16 although your letter is enumerated Exhibit 4, it will
17 be the only exhibit that is actually appended to the
18 record because the remaining exhibits, subject to the
19 committee's confidentiality rules, are not permitted
20 to be publicly released.

21 MS. BARTLEY: I understand.

22 MR. NAPPI: Fair enough. Actually, if I

1 could ask one more question.

2 EXAMINATION

3 BY MR. NAPPI:

4 Q You had testified that status reports
5 regarding the collection litigation were prepared.

6 Do you know if those were amongst the firm files that
7 were provided to the RTC?

8 A If we did them, they were in the
9 information turned over.

10 MR. NAPPI: Okay. I appreciate that. We
11 appreciate your time. If there is a need to do a
12 follow-up deposition in person, we will let you
13 know. We can go off the record now at 12 of 6:00.

14 (Whereupon, at 5:48 p.m., the deposition
15 was concluded.)

16

17

18

LANCE RANDELL MILLER

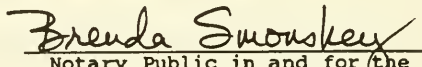
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22

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

**MILLER EXHIBIT 1 WAS NOT PROVIDED
IN TIME FOR PUBLICATION**

MEMORANDUM

TO: JSS
FROM: LM
DATE: April 23, 1987
RE: Madison v. Peacock

Our firm represents Madison Guaranty Savings & Loan Association ("Madison") in several collection matters related to Charles Peacock, III, his children and related entities. We have been dealing primarily with Ms. Pat Heritage, a loan and collection officer with Madison.

On Tuesday, April 21, 1987, Ms. Pat Heritage informed me that she had spoken with Mr. Greg Hopkins, attorney for the Peacocks. Mr. Hopkins informed Ms. Heritage that there is a move underway to have our firm disqualified from representing Madison. The basis of the disqualification is that Jim Guy Tucker has substantial involvement with Madison and with Mr. Jim McDougal, that this creates a conflict, and therefore, our firm should be disqualified.

Mr. Hopkins went on to explain that there was substantial wrongdoing regarding the prior administration of Madison, that several people were "going to go to prison," and that our firm will be severely embarrassed when a full disclosure is made and our firm is disqualified with potential sanctions being imposed. Mr. Hopkins also stated that the matters

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regarding the Peacocks and Madison was getting too dirty and he has considered resigning his representation of the Peacocks.

Mr. Hopkins further informed Ms. Heritage that Madison should seek additional counsel not only because of Jim Guy's conflict, but also because all our firm is doing is churning the files in an effort to enhance the amount of the billings and that we have no concern for the ultimate outcome or the costs incurred by Madison.

In addition, Mr. Hopkins informed Ms. Heritage that one of the loans made by Madison to Dixie Continental Leasing, upon which Marcy Taylor has undertaken foreclosure proceedings, also involves fraudulent transactions. Mr. Hopkins stated that a portion of the loan proceeds made to Dixie Continental Leasing went to Bill Clinton's campaign and that in return for the substantial campaign contribution, Bill Clinton assured Jim McDougal that a state agency would lease space from Madison at its headquarters on Main Street in Little Rock. I fail to see any conflict with regard to our firm based upon the Dixie Continental/Bill Clinton transaction, but Mr. Hopkins seems convinced that wrongdoing existed that would be imputed to our firm.

Mr. Hopkins further stated that I should not have said what I did in front of the Bankruptcy Court at the hearing held on Wednesday, April 8, 1987. At that hearing we were successful in having the Peacock Brothers d/b/a The Peacock

HOUSE

Company's Chapter 11 bankruptcy petition dismissed with prejudice.

I am of the opinion that Mr. Hopkins was severely embarrassed as a result of having the Chapter 11 dismissed with prejudice after he had made representations to his client that everything would be taken care of. Mr. Hopkins is now apparently attempting to slander our firm and making allegations that I feel are wholly unsupported by the facts in these proceedings. I am greatly offended that Mr. Hopkins has imputed that Mr. Tucker is some way involved with the fraudulent dealings and that our firm is involved in misdealings.

On April 21, 1987, immediately after discussing this matter with Ms. Pat Heritage, Tim Grooms and I discussed the matter with Mr. Tucker. Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison. In addition, Jim Guy informed us that a full disclosure of his transactions with Madison has been made to the FSLIC and that the representation of our firm has been approved by the FSLIC. Jim Guy suggested that I draft this memorandum to inform you of the statements made and to solicit your advice regarding the allegations made by Mr. Hopkins.

Please review the matters set forth above and, at your convenience, contact either Tim or myself regarding any comments or suggestions that you may have to an effective resolution of the matters set forth herein.

HOUSZ

cc: Mr. Jim Guy Tucker



December 14, 1995

VIA FAX AND REGULAR MAIL

H. Maurice Mitchell, Esq.
 Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
 320 West Capitol Ave.
 Ste. 10000
 Little Rock, Arkansas 72201-3525

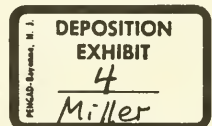
Re: Madison Guaranty Savings and Loan Assoc.

Dear Mr. Mitchell:

We understand that the Senate Special Committee to Investigate Whitewater wishes to conduct discussions with certain members of your firm and that you have expressed the concern to Committee staff that to the extent they inquire of discussions which members of your firm had with representatives of Madison Guaranty, such discussions would be subject to the attorney-client privilege. Of course, the Resolution Trust Corporation as successor to Madison Guaranty now holds the privilege.

This is to advise you that the members of your firm may respond to the Special Committee's inquiry, even if doing so would disclose privileged attorney-client communications. The Special Committee is duly authorized to conduct an investigation involving institutions under RTC control. The RTC is committed to cooperating with the Special Committee. Moreover, it is the RTC's position that under applicable law, disclosure of such privileged communications to the Special Committee does not constitute a waiver of the privilege.

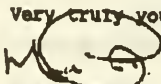
Accordingly, you are authorized to disclose privileged attorney-client communications with representative of Madison Guaranty, as well as its subsidiaries and affiliates, to the Special Committee and its staff. You should understand, however (and by copy of this letter, I am so advising the Special Committee), that the RTC does not intend by this authorization to waive the attorney-client privilege; nor are we authorizing anyone to waive the privilege. Rather, we are simply complying with requests from the Special Committee for information related to Madison Guaranty and we urge you to extend your full cooperation to the Special Committee.



H. Maurice Mitchell, Esq.
 December 14, 1995
 Page 2

Please feel free to contact me (202 736-0641) or Terry Arbit
 (202-736-0347) should you have any questions about this. Thank you
 for your cooperation.

Very truly yours,



MARK GABRIELIAN
 Senior Counsel

cc: Mark J. Brenner, Esq. (tax)
 Terry Arbit, Esq.

**DEPOSITION OF MICHAEL J. DRAKE
IN RE: S. RES. 120**

WEDNESDAY, JANUARY 24, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MICHAEL J. DRAKE, called for examination pursuant to notice of deposition, at 10:04 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

LANCE COLE, Esq.

Minority Deputy Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

RICHARD A. FEINSTEIN, Esq.

McKenna & Cuneo, L.L.P.

1575 Eye Street, NW

Washington, DC 20005

On behalf of the Deponent.

ALSO PRESENT: JAMES F. REDFERN

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WITNESS

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1 P R O C E E D I N G S

2 Whereupon,

3 MICHAEL J. DRAKE

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q Good morning, Mr. Drake. My name is
9 Michael O'Callaghan. I am associate counsel with the
10 Majority on the Special Committee. We are conducting
11 this investigation pursuant to Senate Resolution
12 120. This resolution establishes a Special Committee
13 administered by the Banking Committee to conduct an
14 investigation involving Whitewater Development
15 Corporation, Madison Guaranty Savings & Loan
16 Association, Capital Management Services,
17 Incorporated, the Arkansas Development Finance
18 Authority and other related matters.

19 This deposition is in advance of public
20 hearings which will likely occur in February, and
21 there is a possibility you will be asked to testify
22 at those hearings.

4

1 Today we will ask you a series of
2 questions. You are testifying under oath. You have
3 just been sworn in. If you don't understand the
4 question that either me or Minority's counsel poses
5 to you, we will rephrase the question. Hopefully you
6 will understand it. If you need a break, also let us
7 know and we will go off the record and take a break.

8 The stenographer is preparing a record of
9 questions and answers. The deposition will be
10 treated as committee confidential until the
11 commencement of the hearings. Prior to the hearings,
12 you will be given a chance to review your transcript
13 and make any corrections on an errata sheet.

14 You will also have a chance to get a copy
15 of your deposition transcript prior to hearings if
16 you are called to testify. I think in the past we
17 have gone about three or four days before the
18 hearings to give you a chance to have a copy of it.

19 You maybe represented by counsel today.
20 Are you represented by counsel?

21 A Yes.

22 MR. O'CALLAGHAN: Counsel, please state

1 your name and the firm you're associated with.

2 MR. FEINSTEIN: Richard Feinstein. I am
3 with the Washington office of McKenna & Cuneo.

4 BY MR. O'CALLAGHAN:

5 Q Objections to the form of questions will be
6 noted for the record. Counsel may object on grounds
7 of privilege or relevance. The Committee chairman
8 may rule on objections where the witness refuses to
9 answer a question.

10 Would you state and spell your full name
11 for the record.

12 A Michael Jerome Drake, M-i-c-h-a-e-l,
13 J-e-r-o-m-e, D-r-a-k-e.

14 Q Do you have any personal knowledge of the
15 Committee's document request for subpoenas, for
16 documents with regard to activities, of Collins
17 Locke & Lasater, and Lasater & Company?

18 A No.

19 Q Have you spoken with anyone other than your
20 counsel prior to this deposition about this
21 deposition?

22 A Yes. My wife, and a former attorney in

1 Little Rock, a guy that used to represent me.

2 Q Were you seeking legal advice from him?

3 A Yes.

4 Q As you probably know, you need to
5 articulate your answers for the record.

6 A I'm sorry.

7 Q Did you -- what did you do to prepare for
8 this deposition?

9 A I talked with my attorney, that's it.

10 Q Did you review any documents?

11 A No.

12 Q Talk to anybody else?

13 A No.

14

15

16 MR. O'CALLAGHAN: Just joining us is James
17 Redfern, who is a consultant to the Special Committee
18 for the Majority.

19 BY MR. O'CALLAGHAN:

20 Q What is your present business address?

21 A 10310 West Market Street, Suite 210, Little
22 Rock 72205.

1 Q Who is your present employer?

2 A I am self-employed.

3 Q And the name of your business or firm?

4 A Set the Curve.

5 Q What type of business is that?

6 A Marketing firm.

7 Q How many employees do you have?

8 A Six.

9 Q Could you give me a brief description of

10 your education history since you graduated from high
11 school.

12 A I attended Harding College in Searcy,

13 Arkansas, where I received a bachelor's degree in

14 1969, and then I attended the University of Michigan,

15 and Wayne State University in Detroit, where I

16 received a master's degree in 1974.

17 Q In what field was that master's in?

18 A It was in urban studies -- urban planning

19 with an emphasis in municipal finances.

20 Q Have you done any other graduate work other
21 than that?

22 A No.

1 Q Could you give me a general description of

2 your employment history since you finished up your

3 work at University of Michigan and Wayne State?

4 A Let's see. My first job out of the box,

5 right out of graduate school was with the city of

6 Westland, Michigan, one word, where I was a -- I

7 spent about six years in municipal government. And I

8 was then recruited by Stephens, Incorporated to come

9 to Arkansas and work in the new business development

10 department of the investment firm.

11 Q When was that?

12 A That would be in the late '70s.

13 Q And did you go to work for Stephens?

14 A Yes.

15 Q How long were you employed there?

16 A Around five years.

17 Q What was your position there?

18 A I was an investment banker in the new

19 business development department. After that, I went

20 to Memphis to head the public financial department

21 for Morgan Keegan & Company, and shortly after I

22 arrived in Memphis, I was recruited back to Little

1 Rock to head the fixed income public finance
2 department for Collins Locke & Lasater.

3 Q What year was that?

4 A That was in -- maybe '82, '83, in that
5 area.

6 Q And who recruited you to go over there?

7 A David Collins.

8 Q How long were you employed there for?

9 A Around three years. Almost three years to
10 the date of my employment.

11 Q So through 1985?

12 A Probably through -- I think through '86.

13 Q '86.

14 What was your official title at Collins
15 Locke & Lasater?

16 A I was senior vice president and responsible
17 for fixed income and tax-exempt securities.

18 Q Who did you report to when you worked
19 there?

20 A David Collins.

21 Q Anyone else?

22 A No, not while he was there.

10

1 Q Okay. How long did you report to him for?

2 A Well, when he left, I would say he was
3 there two years before the firm split up. And then I
4 reported to Larry Malone, who is the president of
5 Lasater & Company.

6 Q Did the company change names at any point?

7 A Well, it went from Collins Locke & Lasater
8 to Lasater & Company.

9 Q When did that happen?

10 A I will say that it was around 1985. I am
11 not real certain but in that area.

12 Q What was Larry Malone's title?

13 A President of Lasater & Company.

14 Q And how about David Collins when you were
15 reporting to him; what was his position?

16 A He was president of Collins Locke &
17 Lasater.

18 Q Who did Mr. Collins report to?

19 A Well, he was a partner, so I would imagine
20 he reported to his other partners.

21 Q And who were they?

22 A George Locke and Dan Lasater.

1 Q How about Mr. Malone? Who did he report
2 to?

3 A He reported to Dan Lasater.

4 Q At any time, did either Mr. Locke or
5 Mr. Collins leave the firm?

6 A Yes.

7 Q When did they leave the firm? I think you
8 told me Mr. Collins left approximately 1984?

9 A There was a dispute. Collins left to go to
10 form his own firm. I am not certain if -- if Locke
11 left to go with Collins or if he -- I think he stayed
12 with Lasater. But it was called Lasater & Company
13 and then Collins & Associates, so there was a
14 partnership split up.

15 Q How many people reported to you while you
16 were -- for --

17 A Excuse me.

18 Q For convenience purposes, we will call them
19 both Lasater & Company, if that's agreeable.
20 Defining Collins Locke & Lasater and Lasater &
21 Company, we will refer to it as Lasater & Company, if
22 that's okay.

1 MR. FEINSTEIN: If the question has a
2 different answer depending on which of the two
3 companies it refers to, then you should answer them
4 separately.

5 THE WITNESS: I would like to answer them
6 separately.

7 At Collins Locke & Lasater, probably 30
8 people. At Lasater & Company, maybe 80 people. It
9 changed from time to time. As employment would rise
10 and fall, as more people were added, my duties were
11 more finely defined and restricted to public finance
12 rather than trading.

13 BY MR. O'CALLAGHAN:

14 Q Was there a specific time when you did more
15 trading versus dealing with public finance issues;
16 earlier, later?

17 A I would say late in my career with Lasater,
18 I did more municipal trading. I didn't do any
19 taxable trades in my entire career there. I was
20 merely a supervisor. At the end of my time with
21 Lasater, I was responsible for underwriting, and for
22 secondary market trading.

1 Q When would you say that that became a
2 majority of your work at Lasater & Company, doing the
3 underwriting and secondary market trading?

4 A The last year I was there, I was almost
5 exclusively responsible for that.

6 Q Did you have any responsibility or role in
7 furthering the company's efforts to incorporate the
8 bond writing contracts with the Arkansas Development
9 Finance Authority?

10 A Yes.

11 Q What was your role with regard to that?

12 A Generally, I was responsible for preparing
13 proposals, written proposals, and for preparing -- or
14 for submitting those proposals to Development
15 Authority staff, and for developing relationships
16 with members on the board, the employees to the
17 actual Development Finance Authority board, and for
18 maintaining relationships with senior managing
19 underwriters and other of the selling group member
20 professionals or the other co-managers.

21 Q At other firms?

22 A Yes.

1 Q With regard to developing relationships
2 with members of the ADFA, A-D-F-A, which is an
3 acronym I will use for the Arkansas Development
4 Finance Authority, if that's acceptable, how did you
5 go about that?

6 A Well, it was pretty straightforward. I
7 would introduce myself to the board members when I
8 came to the firm, and tell them that I was
9 responsible for the specific transactions that the
10 firm was involved with, and I wanted them to know who
11 I was, and that I was no longer with Stephens, I was
12 now at Lasater & Company, and to do the best I could
13 to win business for our firm.

14 Q When did Collins Locke & Lasater first
15 become eligible to participate in ADFA bond
16 underwritings?

17 A When I -- when I arrived on the scene, ADFA
18 had not been created yet. It was Arkansas Housing
19 Development Authority. AHDA is the acronym. The
20 firm was already a co-manager of the single-family
21 bond issue aspect of the AHDA. There were two
22 elements, one was multifamily and one was single

1 family.

2 Are you familiar with what I am talking
3 about? Okay.

4 As I recall, we -- the firm was not a
5 member of the multifamily selling effort, but was a
6 member of the single family selling effort when I
7 arrived.

8 Shortly after I arrived, the -- as I
9 recall, there was legislation passed in the Arkansas
10 legislature and signed in law that created ADFA,
11 which was the successor to the Housing Authority, and
12 we were, as I remember, we were grandfathered in as
13 co-managers into that ADFA situation.

14 Q Had there been a time when Collins Locke &
15 Lasater hadn't been eligible to participate in AHDA
16 bond underwritings, do you know?

17 A I don't know. It seems like there was a
18 time -- we had to prepare proposals, and submit
19 proposals to the staff, but it -- there may have been
20 net worth or net capital or some of those issues. I
21 am not really -- I don't remember exactly if there
22 were or not. There could have been.

16

1 Q When you first joined the firm, Collins
2 Locke & Lasater, was the firm experiencing any
3 financial difficulties?

4 A Yes.

5 Q As best you can, describe the financial
6 difficulties that you are aware of.

7 A The ones that I became aware of were net
8 capital problems. For purposes of calculating net
9 capital, there are certain assets which cannot be
10 included in the calculation. And the -- let me say
11 the administrative end of the firm was not real clear
12 on NASD rules, and it became clear to me that there
13 was a problem with that. And I suggested certain
14 restrictions in the firm that would enable the firm
15 to calculate net capital more accurately, and comply
16 with what I thought were the definition of net
17 capital by the NASD.

18 Q How did that first come to your attention?

19 A The chief financial officer of the firm, I
20 think, brought to it my attention.

21 Q Who was that at the time?

22 A I can't remember his name, but I know what

1 he looks like. I don't remember his name. Seems
2 like it was Gary something. I don't remember
3 exactly.

4 Q Was it Gary Chambers?

5 A Gary Chambers, exactly.

6 Q How did he first approach you about the net
7 capital or potential net capital problems?

8 A We were just talking one day in his office
9 and he mentioned it to me, that the -- at the time,
10 there were some assets like the boat that David
11 Collins had purchased that he was using to calculate
12 net capital which was not an asset that was
13 eligible. And I said you know we are going to have
14 to do something about this. We are going to have to
15 add either some more cash or some -- to improve our
16 liquidity or some more securities that are eligible
17 for calculation, and he agreed.

18 And then we considered -- I made a
19 recommendation that we form a holding company, and
20 create different subsidiaries to hold title to these
21 assets that were not appropriate for inclusion in the
22 calculation of net capital. As I recall, those

1 recommendations were accepted and that helped ease
2 the -- part of the problem.

3 Q Had the NASD informed the firm that they
4 had concerns about net capital of the firm?

5 A I recall something like that happening, but
6 I don't recall actually what it was. But I do recall
7 the NASD informing the firm that they were out of
8 compliance when it was Collins Locke & Lasater. I
9 don't recall that occurring when it was Lasater.

10 Q You don't recall specifically what their
11 assertion was of how they were out of compliance --

12 MR. FEINSTEIN: Whose assertion are you
13 referring to?

14 MR. O'CALLAGHAN: NASD.

15 THE WITNESS: It had to do with net
16 capital. I don't know. I don't remember exactly
17 what it was regarding. It could have been regarding
18 these assets. That's where my concern was.

19 BY MR. O'CALLAGHAN:

20 Q Other than the boat, were there any other
21 assets that you identified that shouldn't have been
22 included in net capital calculation that were being

1 included?

2 A I don't remember if the airplane was
3 involved in that, was in that or not. David had
4 purchased a jet, and I don't -- it seems like that
5 may have been in there, but I don't recall exactly.

6 Q Did there come a time when the company
7 satisfied the NASD with regard to its net capital --

8 A Yes.

9 Q Do you recall when that occurred?

10 A No. I don't.

11 Q Was this after the creation of the holding
12 companies that you recommended?

13 A Yes.

14 Q What was the process for submitting
15 proposals to ADFA?

16 A As I recall, typically, there would be a
17 RFP, a request for proposals, that would be sent by
18 the staff to all the investment firms in Arkansas.

19 Q So that was a blanket request, as far as
20 you know?

21 A As far as I know, yes.

22 That met the criteria for being involved

20

1 with ADFA, or excuse me, AHDA.

2 The staff at the time, as I recall, had --
3 I'm reasonably sure that the staff would also run ads
4 in a trade journal called the Bond Buyer, soliciting
5 national firms' interest.

6 Q When you say "the staff," the staff of
7 AHDA?

8 A Yes, the staff of AHDA.

9 Q Was the process the same when ADFA came
10 into being?

11 A As far as I recall, yes, although I don't
12 recall as many RFPs for co-managers at the local
13 level at ADFA as I do during AHDA's time. ADFA was
14 created to be a more prolific issuer of securities
15 with broader powers than AHDA, so the more
16 distribution that they had, the better off they would
17 be.

18 Q So they had more or less RFPs that were
19 sent out to co-managers?

20 A I recall more for AHDA than I do for ADFA,
21 even though ADFA was a more prolific issuer.

22 Q How long were you at Collins Locke &

1 Lasater while AHDA was in existence?

2 A Well, for as long as I was there. And I
3 would say I was there for two years. The first two
4 years I was there, I recall the ADFA legislation was
5 passed while I was at CL&L.

6 MR. FEINSTEIN: For the record, can we get
7 the identity of the person who just joined us.

8 MR. COLE: Let's go off the record for a
9 moment.

10 (Discussion off the record.)

11 MR. O'CALLAGHAN: Let's go back on the
12 record. Lance Cole has just joined us from the
13 Minority staff.

14 BY MR. O'CALLAGHAN:

15 Q After the RFPs were sent out by ADFA, what
16 would be the first step you would take in replying to
17 these?

18 A Prepare a reply.

19 Q What form would that normally take?

20 A It was in writing.

21 Q Would that be in the form of a formal
22 proposal, written proposal?

22

1 A Typically it would be, yes.

2 Q During the time that you were at Collins
3 Locke & Lasater and Lasater & Company, would these
4 typically be independent proposals prepared by the
5 firm or would they be in conjunction with other
6 firms?

7 A Both.

8 Q Who at the firm assisted you in preparing
9 the proposals?

10 A Well, it would depend on what elements the
11 proposal called for. If it is a financial statement,
12 Chambers; if it was -- if it was distribution, it
13 would be the trading desk; if it was -- I was the
14 idea end in terms of developing suggestions or
15 proposals on different structures of financings, and
16 I was typically responsible for pulling all the
17 different department contributions together and
18 submitting the proposal, which we generally submitted
19 in person to the staff.

20 Q In what form would that presentation be
21 made?

22 A It would be in written form.

1 Q That would be to the staff or to the board
2 members?

3 A We would go to the staff for evaluation,
4 and as I remember, as I recall, the staff would make
5 a proposal to the full board or a committee of the
6 board, who would evaluate the qualifications based
7 upon the staff's ranking. And the board would then
8 vote on who they wanted to include in a specific
9 underwriting or a specific transaction.

10 Q Did you ever make direct pitches to the
11 board members?

12 A You mean official pitches?

13 MR. FEINSTEIN: Maybe we should get some
14 clarification of the definition of "pitch," so we are
15 all on the same page.

16 MR. O'CALLAGHAN: All right, sir.

17 THE WITNESS: You mean going to a board
18 member?

19 BY MR. O'CALLAGHAN:

20 Q In connection with your proposals, did you
21 ever go directly to board members --

22 A Yes.

1 Q -- to recommend that they accept your
2 proposals?

3 A You bet I did.

4 Q Was there any particular board members you
5 had more or less contact with?

6 A Yes.

7 Q And who would you say you had more contact
8 with?

9 A That I personally had more contact with?

10 Q Correct.

11 A James Brannon, Margaret Davenport, Bill
12 Mathis, George -- George somebody.

13 Q Was it a George Wright?

14 A No. George -- I don't remember his last
15 name.

16 Q If you --

17 A I just saw him the other day in the
18 airport, but I don't remember his last name.

19 Q If you recall it during the course of the
20 deposition, feel free to let me know.

21 A I will.

22 Q Anyone else?

1 A Howard Weichern. I was familiar with all
2 of the members and visited with them privately in
3 their offices many, many times, so it would be safe
4 to say that all the ADFA board members were people I
5 was acquainted with in one fashion or another. I
6 mean, I made it my business to know that.

7 Q Were other people at the firm familiar with
8 the board members?

9 A Yes.

10 Q Who else at the firm was familiar with
11 them?

12 A Tom Carter, who was a trader, municipal
13 trader and had all of the underwriting on the
14 national level, was familiar with many of the
15 members. Danny English was a gentleman who was a
16 salesman, who did a fair amount of work with Margaret
17 Davenport, who was an executive at the Twin City
18 Bank. I can't think of any others right now, but if
19 I do, I'll --

20 Q Did Mr. Lasater have any contact with the
21 board members?

22 A Not to my knowledge. He could have, but

1 not to my knowledge.

2 Q Did anyone at Lasater & Company make any
3 recommendations to the governor's office as to who
4 should be on the ADFA board?

5 A Yes.

6 Q Who did that?

7 A Dan Lasater did, and Dan did at my
8 suggestion and at the suggestion of others. He sure
9 did.

10 Q So you had a role in helping formulate
11 recommendations for the ADFA board?

12 A Yes, I did.

13 Q What type of consultation did you have with
14 Mr. Lasater with regard to recommendations for the
15 board?

16 A Well, if there was a vacancy on the board,
17 I would routinely inform Dan of people that I thought
18 would be good board members, and Dan would then
19 convey that to then-Governor Clinton. I might also
20 add that we did the same things when I was at
21 Stephens. It is very routine.

22 Q Who else consulted Mr. Lasater with regard

1 to recommendations for the ADFA board? You said
2 there were other people.

3 A Well, I don't know specifically who he
4 relied upon. I do know that he told me he would ask
5 others for their -- for a comment on the person that
6 I had suggested as well as suggestions for other
7 folks. So it -- you have to ask Dan that question.

8 Q You mentioned some people earlier that you
9 had contact with on the board. One of them was James
10 Brannon.

11 Did Mr. Lasater make a recommendation to
12 Governor Clinton to appoint Mr. Brannon to the ADFA
13 board?

14 A I don't know.

15 Q How about with regard to Margaret
16 Davenport?

17 A I don't know.

18 Q And Bill Mathis?

19 A Yes.

20 Q How do you know that?

21 A Dan told me he did.

22 Q How about Howard Weichern?

1 A I don't know.

2 Q Did you recommend to Mr. Lasater that he
3 recommend these people to the board, any of these
4 people to the board just listed?

5 A Bill Mathis.

6 Q Any others?

7 A No.

8 Q Do you know if Mr. Lasater had any personal
9 relationships with any members of the ADFA board?

10 A Do you want to define "personal
11 relationships"?

12 MR. FEINSTEIN: Thank you. I was about to
13 ask him to do that.

14 THE WITNESS: I mean --

15 BY MR. O'CALLAGHAN:

16 Q Whether he associated with them in a social
17 context, outside of business dealings with the firm.

18 A Well, I guess I would say he did, with
19 board members and lots of other people.

20 Q And --

21 A That's a real -- if we go to a party, yes,
22 and they were there, they would know who Dan is, so

1 let me answer it that way.

2 Q Okay.

3 A Or a fundraiser or whatever the occasion
4 was.

5 Q Do you know if he specifically had any --
6 more than just running into people at fundraisers or
7 random parties, whether he had specific friendships
8 with any members of the board?

9 MR. FEINSTEIN: I am going to object on the
10 grounds that that's vague.

11 But if you understand it, try to answer
12 it.

13 THE WITNESS: I know we did business with
14 Twin City Bank, so I knew Dan knew Margaret on a
15 first-name basis. We did -- that's about the only
16 one that I can recall that I would say was more than
17 just an acquaintance. See, there was a business
18 relationship there at the bank, as well as the
19 relationship we had with Margaret as a member of the
20 board.

21 BY MR. O'CALLAGHAN:

22 Q Did Lasater & Company have any business

30

1 dealings with any of the businesses associated with
2 the board members?

3 A Not that I know of. Not that I recall. I
4 don't think so.

5 Q You testified earlier that on occasion you
6 meet with board members privately to discuss
7 proposals that the firm was making.

8 What do you recall about the nature of
9 those discussions? Was it at someone's office, just
10 casual conversation? Did you come with
11 documentation? Would you describe --

12 A I would typically take a copy of whatever
13 proposal that I had submitted to the staff and
14 attempt to meet with the individual members and
15 explain our position, what we were hoping to
16 accomplish, why I thought it was important for them
17 to select us, answer any questions I could, make
18 myself available to them, to let them know we thought
19 the business was important enough to us to spend the
20 time to drive to southern Arkansas in a two-lane road
21 in the middle of the winter to talk to a board
22 member.

1 Q The best you can approximate, during the
2 time that Collins Locke & Lasater and Lasater &
3 Company, how often did the firm serve as a lead
4 underwriter on any of the AHDA or bond offerings?

5 A A lead underwriter?

6 Q Yes.

7 A I don't recall us ever being a lead
8 underwriter.

9 Q So as far as you know, the firm mainly
10 served as what's called a co-underwriter; is that
11 correct?

12 A Yes.

13 Q What type of services did the company
14 provide as a co-underwriter that would be different
15 than services provided by a lead underwriter?

16 A Well, a lead underwriter typically is
17 responsible for structuring the transaction, working
18 closely with bond counsel to develop documents, trust
19 indentures, depending on the type of financing and
20 other documentation that provide for the -- what I
21 call the meat and potatoes of the deal.

22 They would also be responsible for

1 distributing and having an official statement
2 prepared, evaluating its accuracy for disclosure
3 purposes, alerting the market to the coming issue,
4 gosh, working on a more frequent basis with staff to
5 inform them of important things like interest rates,
6 where the markets is headed, expectations of when it
7 might be timely to issue the securities.

8 Q When you say "staff," are you referring to
9 the Authority staff?

10 A Yes. And typically that role was fulfilled
11 by a New York firm. Because of A, the capital, B,
12 the distribution capabilities of a New York firm vis
13 a vis someone in Arkansas. Typically the firms that
14 served as co-managers were one-office firms, Stephens
15 at the time didn't have branches, so that the
16 responsibilities of the senior manager are
17 substantially different than those of the co-manager.

18 Q As co-manager, what did Lasater & Company,
19 or Collins Locke & Lasater, what are the types of
20 services they did provide?

21 A We did two things, two distinct roles. One
22 was to sell securities during the offering period,

1 and the other was to assist the senior manager in
2 fulfilling the specific roles, like structuring
3 ideas, doing legwork in Arkansas when it was
4 impossible for a member of the senior management's
5 public finance department to come to Arkansas for
6 either submission of the documents or working with
7 attorneys or things like that. So it was someone as
8 support and the other was a sales.

9 Q Okay. And earlier you talked about
10 submitting proposals.

11 Was the bulk of the work on proposals done
12 by Lasater & Company, or would more of that be done
13 by the lead underwriters and Lasater just presented?

14 A No.

15 As I recall, there would -- there was --
16 there were two evaluations that occurred. One was
17 for the selection of the senior manager, the managing
18 underwriter, and the other was for the selection of
19 the co-managers, as I recall.

20 Now, there were times when -- that we would
21 submit proposals with other firms, to -- and here is
22 a package, instead of going through the dog and pony

1 show where -- we used to call them beauty contests.
2 Constantly we would make alliances with different
3 firms that we thought had good ideas or strengths
4 that others didn't have.

5 So, it is difficult to say as a yes or no
6 that there were more with ADFA than there were with
7 AHDA, because there were different situations. They
8 called for different responses.

9 Q With regard to actual bid proposals, were
10 those prepared by the lead underwriters or did you
11 all have input into that as well?

12 A Bid proposals?

13 Q The pricings of the deals?

14 A Let me -- before I answer that, let me
15 explain how I recall that working. Then you can
16 understand my answer.

17 When ADFA selected a team to sell
18 securities or to underwrite securities, there were
19 expectations of where interest rates might be at the
20 time. These are for negotiated transactions. These
21 are not competitive bid transactions. Okay. I want
22 to differentiate between the two.

1 If, for example, PaineWebber or a national
2 firm was selected along with a group of local
3 underwriters to offer \$100 million in securities, it
4 would take a period of time to structure the
5 transaction, to prepare the documentation, to
6 distribute the official statements, get the bond
7 ready, all that stuff. It would be virtually
8 impossible to predict where the markets would be six
9 months away, although a lot of people tried to do
10 that.

11 What we would do when it was time to offer
12 the bonds is, the lead underwriter would call all the
13 managers, the co-managers, and submit a pricing
14 sheet. These are your price ideas, these are what
15 the yields will be. We would make comments, we like
16 it, or we don't like it, or we think we can sell
17 these securities at this rate or -- or -- but the
18 managing underwriter's responsibility was to make the
19 call, call ADFA, talk to someone on the staff and say
20 these are our price ideas, we are ready to go to
21 market and then a decision would be made either to
22 sell the securities, to go into the market then or

1 wait.

2 Repricing would also be the call of the
3 senior manager. That would occur directly to the --
4 typically it occurs directly with the issuer.
5 Sometimes the staff would be given a responsibility
6 by the board to make that call. Other times the
7 board would want to make that decision.

8 So it varied. Ones the securities were
9 offered and the deal was done, the senior manager
10 would come to Arkansas, a representative with the
11 bond purchase agreement, and would tell the board we
12 sold these securities, here is the yield, da, da, da,
13 da, da and we would sign the bond purchase agreements
14 and deliver the bonds.

15 So we were there, representatives of all
16 the underwriters were there, but the responsibility
17 for that call typically fell with the senior manager,
18 which is why the senior manager made more money than
19 the co-managers.

20 Q Was there a specific criteria that the ADFA
21 board used in choosing co-underwriters?

22 A I don't remember. Could be, probably was,

1 I don't remember.

2 Q Do you recall what -- the main highlights
3 you presented to the board?

4 A Yes.

5 Q What were those typically?

6 A We would talk about -- well, staff, who was
7 there, who could -- what was our experience, what
8 were the individuals in the firm's experience in this
9 type of transaction, A. B, what was our distribution
10 capability. C, what was the volume in securities
11 that we were selling, that were similar to the
12 offering.

13 And then I would typically put in things
14 like we contribute X dollars to the state of Arkansas
15 in employment, taxes, et cetera et cetera, it is
16 important to support local firms, and just whatever I
17 could think of that would convince a board member
18 that it was important to keep our firm or to add our
19 firm to a deal if we were going in. Newspaper
20 articles, you know, whatever. Whatever I could dig
21 up, we would put in.

22 Q Did you have any contact with anyone in the

1 governor's office with regard to lobbying to get
2 underwriting contracts?

3 A Directly in his office?

4 Q Or anyone --

5 A Staff.

6 Q Staff, correct?

7 A Well, Bob Nash was a director of the
8 Development Finance -- president of the Development
9 Finance Authority and I had known Bob for a long
10 time, in the political context, in working on
11 campaigns. And I felt no hesitation of picking up
12 the phone and calling Bob about an issue.

13 Q What type of issues would you discuss with
14 Mr. Nash?

15 A Appointments, policy, directions that we
16 thought the board should go in, legislation affecting
17 the board, just a variety of things. Bob and I had a
18 personal relationship as well as a professional
19 relationship.

20 Q Did you have discussions with him about
21 particular bond offerings that the company was
22 interested in securing contracts for?

1 A I don't remember.

2 Q Did you have discussions with anyone on the
3 governor's staff with regard to specific contracts
4 that the company's interested in securing?

5 A I don't recall ever doing that.

6 Q Did anyone else at the firm have a
7 conversation --

8 A I have no idea.

9 Q Let me finish.

10 A Excuse me.

11 Q Let me finish the question.

12 A I am.

13 Q Did anyone else at Lasater & Company have
14 conversations with anyone in the governor's office
15 with regard to a specific bond underwriting
16 contracts --

17 A Not to my knowledge.

18 Q Other than Bob Nash, did you have contact
19 with anyone else at the governor's office?

20 A I had contact with Betsey Wright, chief of
21 staff.

22 Q What was the nature of your contact with

1 Ms. Wright?

2 A Almost identical to what I discussed with
3 Nash. It wouldn't vary at all. And I would talk to
4 her when I couldn't talk to Nash. When I couldn't
5 talk to her, I would talk to Nash. It depends who
6 was available to take my call, who would return it.

7 Q Did you ever have any conversations with
8 the governor with regard to ADFA issues?

9 A With regard to what?

10 Q ADFA issues.

11 A Bond issues?

12 Q Right.

13 MR. FEINSTEIN: A specific bond issue or --

14 BY MR. O'CALLAGHAN:

15 Q Any bond issue.

16 A No specific bond issue. We did talk to
17 Governor Clinton at a meeting at one of the hotels in
18 Little Rock. We presented ideas to him on where we
19 thought ADFA policy should go, what direction we
20 thought it should take.

21 We were specific in our concern about
22 ADFA's powers, and some other things. That's the

1 only time I specifically recall talking to Governor
2 Clinton about ADFA.

3 Q When you said you spoke to him with regard
4 to ADFA powers, what are you referring to?

5 A Well, the authority that ADFA had. ADFA
6 derived its authority from the legislation which
7 created it. And there was a fair amount of
8 discussion over that legislation and what types of
9 issuing powers ADFA could have, and there was some --
10 there was a fair amount of discussion with regard to
11 financing education, there was a fair amount of
12 discussion and controversy regarding creating the
13 agency in the first place, and we wanted to let him
14 know what our thoughts were.

15 Q When did that occur?

16 A It was during the time that it was
17 Lasater & Company. It was not Collins Locke &
18 Lasater.

19 Q Did that take place at the Legacy Hotel?

20 A It did.

21 Q How did that meeting come about?

22 MR. FEINSTEIN: Do you mean who arranged

1 it?

2 MR. O'CALLAGHAN: Correct.

3 MR. FEINSTEIN: Okay.

4 THE WITNESS: I would imagine -- I don't
5 have specific knowledge of who arranged it. I would
6 imagine that Dan did. I don't recall who did it, but
7 I would imagine that Dan did it or I may have taken
8 it up with Nash, and asked him for the opportunity,
9 and Nash may have -- I don't remember exactly how it
10 happened, how it occurred, but I do know it
11 occurred.

12 BY MR. O'CALLAGHAN:

13 Q Did any other firms participate at the
14 meeting?

15 A I believe E.F. Hutton was present. I
16 believe it was a joint Hutton/Lasater preparation. I
17 don't recall anyone else being there, but there could
18 have been.

19 Q Do you recall who from E.F. Hutton attended
20 the meeting?

21 A I will say it was Steve Claiborne. I am
22 almost certain Steve there was. I don't recall

1 anyone else being there.

2 Q How about from Lasater & Company? Who
3 attended?

4 A There were a lot of people there.

5 Q How many people would you say?

6 A I am going to say there were eight. Maybe
7 more.

8 Q Was Mr. Lasater there?

9 A Yes.

10 Q Were you there?

11 A Yes.

12 Q Was Patsy Thompson there?

13 A Yes, George Locke was there. I don't
14 remember anyone else. Rick Knox could have been
15 there, he was the president of the company at the
16 time.

17 Q How about Mr. English? Was he there?

18 A No.

19 Q And Tom Carter?

20 A I don't think Tom was employed at the firm
21 at that time. I think he left. I am not certain
22 about that.

1 Q Do you recall anyone else?

2 A No, I don't recall anyone else.

3 Q Were there representatives there from the
4 governor's office?

5 A Bob Nash was there and the governor. And I
6 think that was it.

7 Q Do you know if other firms gave similar
8 presentations to the governor, the governor's office?

9 A Yes, other firms did.

10 Q Who else did that, do you know?

11 A PaineWebber did that, Goldman Sachs did
12 that, a Boston --

13 MR. FEUER: First Boston.

14 THE WITNESS: First Boston did that.
15 Merrill Lynch did that. It was very, very common.
16 The governor was very open to new ideas.

17 BY MR. O'CALLAGHAN:

18 Q Was this all in relatively the same time
19 period or --

20 A No, it was over a period of time.

21 Q Split up --

22 A It was in the ADFA development era when

1 Governor Clinton was searching for the best set of
2 ideas to include in the legislation, so there was a
3 solicitation from New York, as well as -- local firms
4 said that we want to have our input, too. There was
5 a -- there was a study stream of people from Wall
6 Street coming to make their ideas known, many by
7 invitation, many because they called and said we have
8 some ideas.

9 And I would tell you that we -- I called
10 many of my colleagues in New York, and suggested that
11 they bring their ideas. I recall talking to Merrill
12 Lynch and Goldman Sachs because they were so prolific
13 in underwriting securities, they had more experience
14 in developing ideas like that, so it was an important
15 time.

16 Q How long did, if you recall, that meeting
17 last?

18 A Our meeting at the Legacy?

19 Q Yes.

20 A Maybe 90 minutes. I would say no longer
21 than 90 minutes.

22 I remember George Locke falling asleep,

1 vividly. It was a pretty good meeting. We had
2 orchestrated it, and it -- it was mostly
3 presentations and very little Q&A. It was mostly
4 boom and boom, out, as I remember it.

5 Q Were there any recommendations presented at
6 that meeting or presentation with regard to specific
7 bond underwritings --

8 A I don't remember if there were. There
9 could have been.

10 MR. O'CALLAGHAN: I would like to take a
11 quick five-minute break, if I might. Off the
12 record.

13 (Discussion off the record.)

14 BY MR. O'CALLAGHAN:

15 Q Mr. Drake, I am trying to get a handle
16 on -- excuse me if I am being obtuse -- on
17 specifically how the co-underwriters were able to
18 differentiate themselves with the services they were
19 providing with regard to the bond underwritings, and
20 the type of work you did to get your fees and how you
21 were able to distinguish yourselves from the other
22 firms.

1 A Okay. Let me give you an example. This
2 occurred in Arkansas. When the Arkansas Housing
3 Development Authority was in its waning months,
4 E.F. Hutton had been appointed as the senior managing
5 underwriter for a specific bond issue. Hutton sold
6 zero coupon bonds as a feature of its bond issue.
7 Interest rates started going up, and the debt service
8 on those zero coupons started going up.

9 The rate on the securities, there was also
10 a floater in the transaction, which means it varied
11 with interest rates, it was tied to a rate. That
12 rate started going up because the market interest
13 rate started going up for similar issues. What the
14 Authority did with that money that they received from
15 that bond issue is loaned it to banks in Arkansas,
16 who would then make low income loans, or low interest
17 loans to low income families for new housing.

18 Well, the interest rate on the bonds got
19 higher than conventional rates, so banks were sitting
20 there with this money, paying points back to the
21 state, and they were losing their shirt. And Hutton
22 couldn't come up with a way to fix it. I mean, what

1 do you do when you've shorted the market and you
2 know, the security you shorted is now a hundred times
3 higher than the price you sold it at?

4 There was a real concern that there might
5 be a default. And that there would be a calamitous
6 event. A local underwriter named Dabbs Sullivan &
7 Company, which at the time was probably no more than
8 a dozen salespeople with very limited capital, came
9 up with an idea on how to restructure this
10 transaction with the assistance of PaineWebber.

11 When Hutton turned its back on the
12 Authority, Doobie Sullivan, who was the principal of
13 this firm, walked in the door and said we have a
14 solution that will bail you out. It will cost you --
15 I don't remember exactly what it was -- several
16 hundred thousand dollars, but it is the remedy that
17 we are looking for to stop the red ink.

18 PaineWebber and Doobie were appointed as
19 co-managers, as I remember. Now they may or may not
20 have been on equal standing, but they were
21 co-managers and they refunded that bond issue and
22 saved the state an enormous amount of money and a

1 black eye. In that case, Doobie's firm was rewarded
2 because they solved the problem.

3 With regard to how we differentiated
4 ourselves from other firms, I think it is really
5 important to understand that Governor Clinton's
6 position on local bond underwriters was that they are
7 all eligible if they meet the financial criteria that
8 ADFA or AHDA sets. His philosophy was to make the
9 pie bigger, not the pieces bigger.

10 A great example right now is Alice Walton's
11 firm, Llama Securities, up in Fayetteville. Llama
12 was a nothing firm when it asked for inclusion in the
13 selling group, but because it was an Arkansas-based
14 firm that employed Arkansas people, that generated
15 tax revenue and generated income they were included.

16 So it was -- I mean, we competed real hard
17 for business on specific issues, when there was a RFP
18 for specific issues. But as a general policy,
19 everybody was invited to participate. I mean, there
20 were some firms who didn't because they didn't have
21 the distribution capabilities, or they had NASD
22 sanctions against them, one of them is no longer in

1 business now, it was -- I will think of it in a
2 minute, but we were required to submit our
3 qualifications, but I don't think that there was --
4 there was that much difference between a T.J. Raney
5 and a Stephens and a Lasater & Company and a Crews &
6 Associates and Llama Company. It was -- we were
7 Arkansans and you were in the deal.

8 So it is difficult to answer your question
9 specifically, what we did was we answered the
10 questions that ADFA or AHDA asked of us, and then we
11 lobbied like mad to get a bigger piece of the bigger
12 pie, but the pie was constantly being made bigger.

13 Does that help at all?

14 Q Yes. You understand my confusion a little
15 bit.

16 A Yes.

17 Q Did any of the board members ever relay to
18 you how they sorted out what Arkansas firms to
19 include in the bond writings?

20 A No, no. I didn't really care what they did
21 with anybody else. As long as I was in it, I didn't
22 care.

1 Q What were the financial criteria that they
2 required, for --

3 A I don't remember. I would say that you
4 could find out by looking at the proposals.

5 Q Any net capital requirements that you
6 recall?

7 A I don't recall any.

8 MR. COLE: Can I ask one clarifying
9 question before you leave this area to follow up on
10 what Mr. Drake said?

11 MR. O'CALLAGHAN: Sure.

12 MR. COLE: If you know, Mr. Drake, from
13 your experience in the industry, was the process that
14 you just described for Arkansas, was there a
15 comparable process in other states in terms of
16 preference for local firms?

17 THE WITNESS: Absolutely.

18 MR. COLE: So the situation in Arkansas was
19 not essentially different in that regard from what
20 took place in other states?

21 THE WITNESS: No. And there is an example
22 I can give you, when I would -- part of my

1 responsibilities at Stephens and at Lasater and
2 Collins Locke & Lasater was to find business, was to
3 find business opportunities. If I went into Texas to
4 pursue a financing, all the Texas firms that were
5 competing for state business were in the selling
6 group. I mean, it is just part of it.

7 In Michigan, it is the same way, when I
8 pursued deals up there. Typically you find a senior
9 manager who has offices all over the U.S. to
10 facilitate distribution. Clearly we couldn't sell
11 \$100 million worth of bonds in Arkansas. There is
12 not enough capital to buy those kind of securities,
13 but you typically find a national firm as a senior
14 manager and you find local firms as the co-managers.

15 There is another example. When I was at
16 Stevens, I solicited and won the business as
17 financial adviser to the city of New Orleans when
18 Dutch Moreau was mayor, and we came up with an idea
19 on how to finance the new convention center that they
20 used eventually for the World's Fair.

21 Both local firms, Sharoff & Jones -- and
22 the other firm I don't remember -- we were told by

1 the board these firms are going to be in because they
2 are local firms and they support us.

3 There is another reason. After bonds are
4 sold, if there is -- let's say there happens to be a
5 profit in the bond after a year or maybe two years,
6 and an investor wants to sell that bond, it's got to
7 sell it to a broker. All the Arkansas firms maintain
8 the secondary market in Arkansas securities, which
9 meant if you wanted to sell a security that had AHDA
10 on it or ADFA on it and we were an underwriter, we
11 would buy it and we would maintain a market in that
12 security.

13 Well, secondary market trading is crucial
14 to issuers of securities, prolific issuers of
15 securities and if you don't have a secondary market,
16 you can't attract people to buy the next issue you
17 are going to sell. So Michael, there are a variety
18 of reasons that go into the selection of firms.

19 I would say that, gosh, a local presence --
20 governor, when -- after PaineWebber had solved AHDA's
21 problem, PaineWebber continued to do business with
22 AHDA and then with ADFA. They were doing so much

1 business that there was a call to PaineWebber, you
2 better open an office in Arkansas if you want to
3 continue doing business here.

4 BY MR. O'CALLAGHAN:

5 Q Yes.

6 A I mean that's very typical and they did.
7 And they kept doing business.

8 Q Did Hutton have trouble getting ADFA deals
9 after that incident or --

10 A ADFA did not like Hutton after that, no.
11 They did not. For that reason. They had a hard
12 time. They lost credibility. I mean, even though at
13 the time I would say they were probably the
14 preeminent underwriting or idea shop for municipal
15 securities, they wouldn't get their phone calls
16 returned. I mean, they just turned their back on the
17 only state agency that was authorized to issue bonds
18 on a regular recurring basis. And you know, I don't
19 blame them. I don't blame AHDA. I wouldn't have
20 called them either.

21 Q To the best that you can recall, what
22 percentage of Lasater & Company's proposals were

1 accepted by ADFA?

2 A I don't remember that, Michael.

3 Q You don't know? Do you know if any were
4 turned down?

5 A Yes, I do know some were turned down. ADFA
6 was a tough -- they had a tough staff and a very
7 demanding board.

8 Q But once again, I come up with the problem,
9 they had a demanding board, how would they be
10 demanding to, say, Lasater & Company?

11 A Well, if I, for example, would call
12 Margaret Davenport, which I did routinely, and visit
13 with Margaret about a concern of, let's say we are
14 not getting enough bonds to sell. Keep in mind, the
15 senior manager allocates bonds; do you know what I
16 mean by that?

17 Q Yes.

18 A If we had a particularly high issue, and we
19 had sold 38 million bonds at a fixed maturity and the
20 senior manager didn't want to give us those
21 maturities, we were out of luck, so we complained
22 constantly we are not getting the securities. Well,

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1 you know, you are in the deal, we will do the best we
2 can, go talk to staff. The problem was not with the
3 staff; I mean, we would complain. But those -- that
4 was a very recurring problem, because the -- there
5 was such an appetite for these securities, they would
6 go right out the door.

7 So does that answer that question? I mean
8 those are the kinds of -- I took those up with
9 Margaret all the time and James Brannon and sometimes
10 we would want a bigger piece of the management and I
11 would go to them and complain, why don't we get more
12 management fee? Well, I mean, I don't know, talk to
13 the staff.

14 The staff would make recommendation after
15 an evaluation of the proposal, and then say, okay,
16 the financial fees will be split up this way.

17 Q They would allocate which underwriters got
18 which piece of the management fees?

19 A If there were tiers, yes, you bet. You
20 bet. It was like -- if you take the cover of an
21 official statement, you know how important it is to
22 be on the left, everybody goes nuts about that, you

1 got to be positioned, and typically, if there were
2 two national co-managers, the firm that ran the books
3 that fully allocated the bonds would have to be in
4 the upper left. There would be another tier; they
5 received a lesser fee. There would be another tier,
6 and they received a lesser fee. So it was constantly
7 varying.

8 Q The fees varied on the management side?

9 A Yes, they constantly changed. The splits
10 were always -- not always. They were routinely
11 different, depending on how much participation the
12 firm had in structuring the deals, how active they
13 were, stuff like that.

14 Q And how did the board make those
15 determinations without looking at the different
16 proposals or with discussions with the lead
17 underwriter? Do you know how that happened?

18 A Well, I was never a lead underwriter, so I
19 don't know. We lobbied the lead underwriters to get
20 more money, but, of course, if we got more money, it
21 means they had to give it up, and they were very
22 reluctant to do that.

1 Typically the staff makes a recommendation
2 once proposals are submitted to the full board or to
3 a committee of the board. These are the firms we
4 think you should interview, or if this is a short
5 list determination, this is a short list. If it is
6 the outcome of the short list, here is the firm, here
7 is the spread, here is how we will allocate the
8 money. Here is where the money is going to go.

9 Q And the income that the firm generated from
10 participating in the bond underwritings, how would
11 that be broken up between receiving management fees
12 and then doing distribution?

13 A I would tell you that every deal is
14 different. With the -- it really -- it varies from
15 deal to deal. If there is a -- if there is a mandate
16 by the board to bring the deal in at a specific rate,
17 because the board's going to take the money and loan
18 it to banks, who will make loans, then more money is
19 taken out of the gross spread and put into the sales
20 commission, because you can now sell the bonds at a
21 deeper discount and get a better rate.

22 So the management fee diminishes. The

1 lion's share of all fees in municipal finance that I
2 have ever seen is in the sales commission. If you
3 don't sell them, it doesn't matter what your
4 management fee is. You don't get hired again.

5 There is a takedown, which is a jargon for
6 the sales commission, and then there is a concession
7 that you can offer to other dealers, so that if you
8 were T.J. Raney & Company and I was Michael Drake &
9 Company and I had some securities and the sales
10 commission was a point less, a point for concession,
11 and you were a NASD dealer, I could sell you those
12 securities with two points in it one, for you and one
13 for sales commission. If you were not, you didn't
14 get the concession. If you were an institutional
15 buyer, you got the concession. If you were an
16 individual, you didn't get the concession. That went
17 to the house, part of our underwriting risk.

18 So if you took a dollar and allocated the
19 dollar amongst management fee and the actual
20 takedown, the commission on the sales, I will say
21 that 75 percent of it would go to sales commission,
22 so it is important -- it is important to get the

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1 staff's attention when those bonds are allocated
2 because that's where you make your money, and if you
3 don't sell any bonds, you don't get any money. It is
4 just that simple.

5 And one of the amazing things about this
6 whole deal with ADFA is that people don't understand
7 if there is a gross spread of 2-1/2 points in a deal,
8 you divide that up among all the people, that's not
9 how it works. It is based on how much you sell. You
10 get a little bit for management fee, you get some of
11 your experiences reimbursed if you are real lucky,
12 and you have to get out there and sell bonds and
13 that's how the house makes money.

14 MR. COLE: I apologize if you covered this
15 before I came in. For me it would be helpful to have
16 on the record at least in a general way now that we
17 are talking about management fees, and points and
18 spreads, what the underwriter does for the issuer;
19 what risk the underwriter assumes, what's service the
20 issuer is getting from the various underwriting firms
21 in these transactions; is that --

22 MR. O'CALLAGHAN: That's fine. That would

1 be instructive. Just make sure that we define who is
2 the lead underwriter and what each risk is being
3 taken on by each firm, lead versus co-.

4 MR. COLE: I didn't want to interrupt your
5 line of questioning, but I thought it would be
6 helpful to get that on the record now.

7 MR. O'CALLAGHAN: Certainly.

8 THE WITNESS: If the deal is a firm
9 commitment versus a best efforts --

10 MR. COLE: Maybe you should define those
11 terms for this record.

12 BY MR. O'CALLAGHAN:

13 Q In relation to the bonds specifically.

14 A Let's talk about ADFA bonds.

15 Q Yes.

16 A When ADFA would sell or authorize the sale
17 of securities, after it had appointed a team, an
18 underwriting team, the -- as I mentioned earlier, the
19 senior manager would get price ideas from all the
20 trading desks of all the co-managers and it would
21 typically be on a conference call. Then they would
22 send out a pricing sheet.

1 MR. COLE: Would that be based on the
2 perceived demand for the securities?

3 THE WITNESS: Demand and rates with
4 comparable securities.

5 Expressions of interest wasted on the
6 official statement from institutional buyers, banks,
7 insurance companies, people who wanted tax-exempt
8 income and who felt okay with the credit risk.

9 The call would then be -- there would be a
10 summary. There would be a pricing sheet that would
11 be faxed to everyone. Of course it wasn't faxed, but
12 it was over wire, and the senior manager would
13 undertake to discuss the price levels with the
14 issuer, and in ADFA, it could be staff, it could be
15 the board. It just depends. Sometimes the staff
16 would be given the responsibility to do it.

17 We then take our capital and sell
18 securities and we put our capital at risk to deliver
19 those securities to the investor.

20 MR. COLE: Before you get to that point on
21 the credit risk, could you describe briefly how that
22 worked in terms of the extent to which ADFA was

1 behind these bonds?

2 THE WITNESS: ADFA had no guarantee power.
3 These were not full faith and credit bonds of the
4 state of Arkansas. These were all revenue bonds.
5 And the credit rating assigned by Standard & Poor's
6 and Moody's, if both were asked to assign a credit
7 rating, was derived from the revenue source.

8 MR. COLE: The projected revenue stream
9 from the properties that would be financed with the
10 bonds.

11 THE WITNESS: Taking into account default
12 scenarios, taking into account the amount of the
13 reserve funds, et cetera, et cetera, et cetera. So I
14 mean, in those days, there was no history that we
15 could take of default like you do now with GNMA. So
16 ADFA did require firm commitments, said okay, these
17 are going away which means you are going to have to
18 underwrite these bonds so we would have to buy the
19 bonds and hope we had enough commission in them to
20 sell them and make a profit or at least break even.

21 MR. COLE: In layman's terms, you didn't
22 sell them.

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1 THE WITNESS: We had to eat them and we ate
2 a lot of bonds. We ate a lot of bonds. On a best
3 efforts, you do the best you can, make your best
4 efforts to go out and sell the bonds at any price and
5 take it back to the issuer and say take it or leave
6 it. The issuer says okay, I will sell them to you at
7 that price. Then you go back and confirm the orders
8 to the people. That was the best deal. ADFA never
9 did that.

10 MR. COLE: All the ADFA dealings with firm
11 commitments --

12 THE WITNESS: Yes.

13 MR. COLE: What was the benefit to ADFA of
14 a firm commitment underwriting deal with the
15 underwriting firms?

16 THE WITNESS: And that was the certainty
17 that the transaction would be accomplished. There is
18 no certainty in a best efforts. There is no
19 certainty with regard to rate, terms, price, which
20 are all important aspects.

21 BY MR. O'CALLAGHAN:

22 Q During the time that Lasater & Company was

1 participating in the bond underwritings, would you
2 say there was generally high demand for these bonds?

3 A It varied. It varied.

4 Again, demand is -- the market is driven by
5 supply, the number of bonds that are new issues that
6 happen to be occurring that week, so timing was very
7 important.

8 Rate, and just -- there are a whole lot of
9 things that determined that, Michael, and it varied.
10 Sometimes there were; sometimes they weren't.

11 Q Was Lasater & Company's participation in
12 ADFA bond offerings generally advantageous, would you
13 say, from a financial point of view?

14 MR. FEINSTEIN: Advantageous to whom?

15 MR. O'CALLAGHAN: To the company.

16 THE WITNESS: To Lasater?

17 BY MR. O'CALLAGHAN:

18 Q Yes. Did they make money?

19 A I would say that we made money. Yes.

20 Q And how would you characterize it? Was it
21 a lot of money? Average return? Good return? Great
22 return?

1 A It was below what we could earn by putting
2 our capital at risk in daily trading. It was less.

3 The spreads between the offering price and
4 the purchase price with ADFA are very, very narrow.
5 Very narrow. We could make a lot more money trading
6 in the secondary market than we ever could trading in
7 the original issue market.

8 Now, that's not the same for stocks or
9 that's not the same for other securities, but
10 tax-exempt securities, it's a completely different
11 game with the state issuer.

12 Q The big question is why was the firm
13 involved in it?

14 A To support the state. To support the
15 state. And -- I mean, we were corporate citizens.
16 We had a responsibility to support the state. We
17 wanted to be players in that market. We wanted to
18 do -- we wanted to build our municipal underwriting
19 capacity in, and one way to build a resume is to have
20 experience in a specific area. And that was very
21 important to the firm.

22 MR. COLE: Did you make money on secondary

1 market trading after the initial offering? Was that
2 an additional benefit to the firm?

3 THE WITNESS: We made more in secondary
4 market trading than we would make in original issue.

5 MR. COLE: That was another reason for the
6 firm --

7 THE WITNESS: Yes, a lot of -- for example,
8 it is very difficult to call on a major insurance
9 company like, say, an Allstate at the time or -- or
10 someone who was a very prolific buyer of securities
11 if you didn't -- if you couldn't show that buyer that
12 you were a co-manager in the deal. They wouldn't
13 give you a time. They wanted certainty of deliveries
14 because they have laddered maturity, and if they
15 wanted to buy a maturity that was 10 years out and
16 they wanted \$3 million worth of bonds, if you weren't
17 a co-manager and you couldn't confirm it right then,
18 you didn't get the order.

19 BY MR. O'CALLAGHAN:

20 Q There was a benefit in that?

21 A There was a benefit in being the
22 co-manager, sure. If you had a good relationship

1 with the senior manager, and he would or she would
2 allocate the bonds to you that you had sold -- and
3 that was not always the case -- clearly if
4 PaineWebber sold -- had a relationship with Allstate,
5 and I had an order for the same bonds, PaineWebber
6 would get the bonds. I mean, that's just the
7 business.

8 Q And during the time period let's say '82
9 through '86 -- I think that was generally when you
10 were there -- the best you can approximate, how much
11 money would you say the firm took in with regard to
12 ADFA bonds in sales commission?

13 A No way of knowing that, Michael, unless I
14 went over the records. I have no way of knowing
15 that. I just don't know the answer to that.

16 Q What percentage of your income during that
17 time period was derived from working on the ADFA
18 deals?

19 A I was on salary. I was not on a
20 commission. And that would -- ADFA fell within my
21 responsibilities. I was not given bonuses or perks.
22 I was expected to fulfill my responsibility in terms

1 of ADFA. And I am glad it wasn't.

2 Q Okay, you had mentioned earlier that the
3 firm had net capital problems when you first
4 arrived. Were those problems still in existence at
5 any time while the firm received ADFA bond contracts?

6 A I don't recall any. I don't believe there
7 were with ADFA. Because I recall the problem was
8 when we were selling AHDA, and --

9 Q What's your recollection of that? What's
10 your recollection of that?

11 A Of what happened?

12 Q Yes.

13 A As I mentioned earlier, I was visiting with
14 Gary Chambers about a couple of matters, and he
15 indicated to me that we had a net capital problem
16 because some of the assets that David Collins had
17 purchased with firm capital were now being calculated
18 for purposes of net capital, were clearly against the
19 NASD rules.

20 The way it was overcome, we removed those
21 assets and Dan Lasater put more securities into the
22 account of the firm, that could be counted as

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1 collateral for purposes of net capital calculations.
2 The only way the firm could have met those net
3 capital rules is if Dan would have put more money in
4 it in either cash or securities, which he did.

5 Q Was that his own money or -- where did that
6 money come from?

7 A He had a variety of sources. As I
8 remember, we used securities that he had purchased
9 for his mom, and we pledged those. We used -- I
10 think that he was a trustee. I don't -- actually, I
11 remember this, but I do know that there were a
12 variety of gifts that he had given his children, that
13 some of those were pledged. It really depended on
14 the market value of the securities, because we had to
15 market constantly to determine net capital, so it
16 depends.

17 If they were fixed income securities, they
18 were easier to deal with rather than stocks that were
19 pretty volatile. That's what I remember we did.

20 Q Any additional cash put in or was it all
21 securities?

22 A I wouldn't know if there was cash put in.

1 I wouldn't be surprised. I wouldn't be surprised if
2 Dan put cash.

3 Q You said the net capital problems might
4 have existed during a time you had AHDA contracts?

5 A Yes.

6 Q Were they alerted to these problems?

7 A I don't remember. It only occurred
8 briefly. I could remember that. And I do remember
9 that there was some -- the Arkansas State Securities
10 Department raised the issue, and I'm reasonably sure
11 that everybody in Arkansas knew about it. Well, not
12 everybody; informed people. I am pretty sure it was
13 in the newspapers.

14 That was, at that time, not something
15 that -- or even now, that people would take lightly.
16 It is a pretty serious situation.

17 Q Yes. Did the firm have any other problems
18 with the NASD, any other violations?

19 A They had, you know, the stuff which is
20 pretty routine. They had some supervision problems,
21 you know, with brokers, that you see at every firm.
22 Unauthorized trading occasionally. I mean, I don't

1 recall anything else.

2 We had a rogue trader. That cost us a lot
3 of money, which was -- ended up being adjudicated by
4 the NASD, but that had nothing to do with, you know,
5 like a firm violation. I don't think there were any
6 sanctions against the firm. I don't recall the --
7 the business -- the district business conduct
8 committee ever raising any concerns over our
9 company.

10 Certainly after the -- those illiquid
11 assets were removed, it became much easier.

12 Q Do you know what year that occurred, when
13 that --

14 A It was early on my tenure there. I am
15 going to say it was -- probably the first year I was
16 there. Maybe the first year I was there. It was
17 while Collins was still there and he was CEO. Again,
18 he didn't take a material part in any of that. He
19 wasn't licensed, so he couldn't. David was
20 responsible for paying the bills, keeping the net
21 capital requirements within line, and when we found
22 out what had gone on, I went directly to Dan and

1 said, you've got a problem with your partner and
2 here's the partner. And so we recommended it.
3 Q So you went to Dan and told him about it?
4 A I did.
5 Q This is after you had the conversation
6 with?
7 A Chambers.
8 Q Gary Chambers?
9 A Yes, I did.
10 Q Did ADFA conduct any kind of due diligence
11 with regard to underwriters and co-underwriters that
12 they entered into contracts with?
13 MR. FEINSTEIN: Can I have that one read
14 back?
15 (The reporter read the record as requested.)
16 THE WITNESS: I just have to guess. I
17 mean, I never worked for ADFA.
18 BY MR. O'CALLAGHAN:
19 Q Were you ever asked to supply financials of
20 the firm?
21 A Yes.
22 Q How about a disciplinary records, records

1 of sanctions, were you ever asked to supply those?
2 A I don't remember. That would be easy to
3 find out by looking at the RFPs. It would be easy to
4 find out.
5 MR. COLE: Mike, could you go off the
6 record for a moment?
7 (Discussion off the record.)
8 MR. O'CALLAGHAN: Let's go on the record.
9 THE WITNESS: That investment firm that did
10 not get into ADFA was Swink & Company, S-w-i-n-k.
11 BY MR. O'CALLAGHAN:
12 Q Why was that?
13 A They had -- they had -- they were in the
14 paper every day with NASD violations. They
15 eventually were disbanded and the founders were sent
16 to prison for securities fraud, just Bad News Bears.
17 Q Just refresh my mind, when did they go out
18 of business, do you know?
19 A Swink?
20 Q Yes.
21 A Last year, year before that.
22 Q You said in '82, Dan Lasater wasn't

1 licensed. Did he ever become licensed?

2 A I don't know.

3 Q Do you have any reason to believe that he
4 would have become licensed at any time? Did he
5 engage in activity that would have necessitated that?

6 A He was not an officer of the firm, and he
7 had had no direct supervisory power or
8 responsibility, so I remember some talk about him,
9 that he was considering becoming licensed as a
10 general securities -- I think series 7, whatever that
11 is, not a supervisor, though. Not a supervisor
12 position. I think there was some concern that he
13 needed to be licensed if he was going to take a very
14 active role, and I don't think he did as long as I
15 was there.

16 Q Could you characterize the role he played
17 during the course of your employment there at the
18 firm?

19 A Sure. Dan was the money source. Dan had
20 had a very successful career in thoroughbred horses,
21 breeding; was one of the top breeders in the world;
22 had won several Eclipse awards; was well known in

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1 that industry, and was talked into backing David
2 Collins in Collins Locke & Lasater.

3 Locke --

4 Q By whom?

5 A By David. David talked Dan into it, David
6 and George Locke. George had befriended Dan years
7 before that when George was an Arkansas state
8 senator, and they had and maintained a very close
9 relationship.

10 So Dan's role was -- at the time, he had
11 his ranch in Ocala, Florida, his thoroughbred farm,
12 and he spent a major portion of his time in Ocala
13 dealing with that and shipping horses around the
14 world.

15 So he had an office in the building. In
16 fact, when I was being interviewed by him, I asked
17 him what he was going to do, because I wanted to make
18 sure that he had made a long-term financial
19 commitment to that firm before I joined them.
20 Undercapitalization is just a death blow in
21 securities.

22 Q Did you know about that before you got in

1 there, about the capital problems?

2 A No. No. No. What I -- I want to
3 differentiate between making a capital commitment to
4 the firm and net capital violations.

5 Dan did not put in an inordinate amount of
6 money. He put in enough money and securities to meet
7 the net capital requirements based upon our trading
8 activity at the time.

9 What happened was, in the day-to-day
10 operation as the firm started prospering, David
11 Collins bought these assets, and instructed Chambers
12 to calculate the net capital requirements of the firm
13 by using those assets.

14 So, Dan's role was as an investor. He
15 wanted to know what was going on with the company.
16 Whenever we -- if there was a transaction somewhere
17 else and he knew someone that could open a door for
18 us, we would go to him for that. But he mainly
19 watched the bottom line.

20 Q While the firm was participating in the
21 ADFA bonds underwriting, how many people were
22 dedicated to distributing the bonds, selling in the

1 primary and secondary market?

2 A Okay. There were two municipal traders,
3 one was a second market trader, the other was a
4 primary issue trader. The secondary market trader
5 provided the sales force with access to bonds that
6 would appear in the blue list, which is a daily
7 publication of securities that are available as well
8 as over the wire.

9 I was responsible directly for the
10 negotiated financings, so my primary responsibility
11 was to go find business for us.

12 As far as sales, Michael, that's hard to
13 answer. It fluctuated with the sales force, of
14 course, but it also depended upon where the bonds
15 were priced, and what weighting they had. For
16 example, when we get the pricing list, I would make
17 copies, every sales desk in the firm would get a copy
18 of the offering.

19 They would then call their customers and
20 say we are offering these securities at this price,
21 this maturity, this rating, so at any one time all of
22 them or none of them could be selling. It just

1 depended on -- I mean, it is not an answer I can give
2 you on precise terms. It is not 10, it is not 60, it
3 is sometimes 60, sometimes none.

4 Q With regard to the market for the bonds,
5 when would you say the majority of the people you
6 were selling the bonds to, were they institutions or
7 were they individual investors?

8 A The majority were institutions, banks and
9 insurance companies.

10 Q What percentage would you say were sold to
11 individual investors?

12 A Very minor portion. I would say less than
13 ten percent. I would be surprised if it was more
14 than 5 percent. The reason for that is an individual
15 investor can't buy as many bonds as a bank or an
16 institution like an insurance company, and it just --
17 it is very -- it is hard work, and it is --

18 Q Are there different spreads, though,
19 between the two type of customers, institutional
20 investor versus an individual investor?

21 A Different kinds of spreads.

22 If we are in a primary offering, and a

1 nonmember of the selling group but a NASD member
2 calls and says, I've seen the wire, I would like to
3 buy 50 bonds in 2001, we sell them at the concession
4 to that buyer. We cannot sell at a concession to the
5 individual. They have to buy it at the net offering
6 price. You can't do it differently -- you can't sell
7 to him at the concession and you wouldn't, unless the
8 market changes and there is a reason to do that.

9 Q Are you aware of that ever occurring?

10 A I am not. And if it had occurred and I had
11 known about it, there would have been disciplinary
12 action.

13 Q Did the governor have any role in the
14 process for awarding contracts with regard to the
15 bond underwriting contracts, do you know?

16 A Not to my knowledge.

17 Q Did any of the ADFA board members or staff
18 people confer with anyone in the governor's office
19 with regard to recommendations on the bond
20 underwriting contracts?

21 A Not to my knowledge.

22 Q Are you personally aware, have you ever

1 heard of improprieties that have occurred in
2 connection with granting a bond underwriting contract
3 to Lasater & Company?

4 A No --

5 MR. FEINSTEIN: Before you answer that, can
6 we maybe come to some understanding of what you mean
7 by "improprieties"? Are you talking about
8 illegalities? I think it would be helpful to clarify
9 that a little bit.

10 MR. O'CALLAGHAN: Sure.

11 MR. FEINSTEIN: Your definition of improper
12 may not be the same as his.

13 MR. O'CALLAGHAN: No, that's actually
14 fair.

15 BY MR. O'CALLAGHAN:

16 Q Well, first of all, any illegal
17 improprieties in connection with the granting of bond
18 underwriting contracts?

19 A No.

20 Q To the extent that you understand, any
21 unethical influence peddling with regard to bond
22 underwriting contracts?

1 A No.

2 Q Any bribes in connection --

3 A No.

4 Q Are you familiar with a bond underwriting
5 contract that was undertaken in 1985 to provide
6 capital for the purchase of the new police radio
7 system for the state of Arkansas?

8 A Yes.

9 Q What's your familiarity with that?

10 A I was one of the co-managers.

11 Q Who were the other co-managers?

12 A T.J. Raney & Sons and E.F. Hutton. They
13 are no longer in existence. They are now a -- they
14 were acquired by Morgan Keegan & Company.

15 Q What responsibilities did you have with
16 respect to co-managing of this bond underwriting
17 offering?

18 A I was responsible for helping prepare all
19 the documentation. I was responsible for
20 participating in the presentation to the State Police
21 Commission. I was responsible for lobbying
22 commissioners. I worked closely with the state

1 police staff, Colonel Goodwin and somebody else whose
2 name escapes me right now.

3 Q Was it a Simpson or Mitchell, do you
4 recall?

5 A Yes. They were both state police
6 commissioners. The staff member I am trying to think
7 about was a -- a subordinate of Colonel Goodwin's, he
8 was an active duty state trooper.

9 Q Anything else?

10 MR. FEINSTEIN: You mean
11 responsibilities --

12 MR. O'CALLAGHAN: Yes.

13 MR. FEINSTEIN: I just wanted to make sure
14 he had the question in mind.

15 THE WITNESS: Just about the same thing I
16 did with ADFA.

17 BY MR. O'CALLAGHAN:

18 Q Who was the lead underwriter on that?

19 A E.F. Hutton.

20 Q Did you participate in the structure of the
21 deal and how to --

22 A Yes, I did.

1 Q Who did you work with on that?

2 A I worked with Steve Claiborne, who is the
3 regional manager for E.F. Hutton,
4 C-l-a-i-r-b-o-r-n-e. A woman named Laurel, Laurel
5 something from the New York office of Hutton, who was
6 a data processing wiz and someone from Hutton's lease
7 finance group whose name escapes me, but I am sure we
8 could find it in the documents.

9 And --

10 Q If you can think of names.

11 A Bob Warrendhorf.

12 Q We don't know what documents are still in
13 existence, unfortunately. What was the last name?

14 A Bob Warrendhorf was the syndicate desk
15 contact at Hutton in New York.

16 W-a-r-r-e-n-d-h-o-r-f, I think. I can't remember
17 that guy's name from Hutton leasing, but I worked
18 with him. And we structured a very unique
19 transaction.

20 Q How did the group -- how was the -- were
21 the underwriters teamed together to present a single
22 proposal?

1 A Yes.

2 Q How did that come about?

3 A A colleague at T.J. Raney of mine, named
4 Paul -- I will come back to that.

5 Q Paul Young?

6 A Paul Young and Bob Snyder, his immediate
7 superior, called me for a meeting, I am going to say
8 two years before the deal was done. And they -- this
9 was right after Bill was elected to his second term,
10 I think.

11 Q When you say Bill, you mean Bill Clinton?

12 A Right.

13 And they called me to discuss an idea that
14 they had to structure a bond issue for the state
15 police. The state police -- there had been some
16 rumors that the state police needed a new
17 telecommunications system, since there was a
18 patrolman or trooper murdered up in northwest
19 Arkansas because he was out of communications with
20 his base. It is very hilly up there. So Paul came
21 to me and Bob, and they asked me if I would help them
22 with this -- with three things.

1 One, they knew that while Bill was you've
2 office, that there were two firms in Little Rock
3 that -- two investment firms that helped him with a
4 variety of different things. One was Lasater &
5 Company -- one was Dan Lasater, and the other was
6 Doobie Sullivan.

7 The Wright, Lindsey, Jennings law firm --
8 the reason they wanted us to consider helping them
9 was that we had to write legislation that would
10 enable the state department of finance and
11 administration to pare off, if you would, revenues
12 from driver's license renewals and I think license
13 plate renewals or something like that. But the state
14 was not authorized to do it, to dedicate those
15 revenues to a specific source out of the general
16 fund, and it would take legislation to accomplish
17 that.

18 And they also recognized correctly that if
19 the governor did not support this and put it in his
20 legislative agenda, that the chances of it passing
21 were nonexistent. And so they correctly came to me
22 and said, would you help us? And I said of course I

1 will, who are we going to select as the lead
2 underwriter? And Bob Snyder suggested that
3 E.F. Hutton would be a good choice, since Raney and
4 Hutton had teamed up in Texas in a variety of
5 southern or southwestern states and do a lot of
6 business together and they had a great working
7 relationship.

8 Also, at the time I was trying to forge new
9 relationships with investment banking firms on Wall
10 Street, since we depended so much for supply of
11 securities on those firms and I thought it would be a
12 great opportunity.

13 So, I took it to Dan, and said Dan, this is
14 what we want to do. He said proceed. Just let me
15 know how I can help you.

16 Q How did you present it to him? Did you
17 discuss with them how they mentioned that they knew
18 that Lasater and Dabbs Sullivan had helped the
19 governor?

20 A Yes.

21 Q Could explain to me in your words how you
22 relayed that to him and how you characterized it?

1 What did Mr. Snyder --

2 A I said as well as I can remember -- it was
3 a long time ago -- a T.J. Raney has come to us,
4 because of your relationship with Bill, to try to get
5 this legislation passed that will enable us to take a
6 proposal to the State Police Commission to sell these
7 securities and help them acquire this new
8 communications system, this hotshot thing Motorola
9 has come up with.

10 He said fine, what are the steps? I said
11 the steps are, A, we had to find a law firm to draft
12 the legislation; B, we had to work with the staff,
13 with the governor's office to explain why we are
14 doing this, what we hope to accomplish; and C, we
15 have to go to the state police and explain to them
16 what we are trying to do. He said no problem; go do
17 it.

18 We chose the Mitchell law firm in Little
19 Rock to draft the legislation for us. I don't
20 remember now who we got to introduce it. It might
21 have been that the governor introduced it in his
22 package. I don't remember.

1 We met with -- over a period of several
2 months, we met with Colonel Goodwin at the state
3 police, and that subordinate whose name I don't
4 remember who was a major at the time, who was given
5 direct responsibility for the project at the staff
6 level. Colonel Goodwin introduced us to the State
7 Police Commission, which at that time was composed of
8 Bill Simpson, Johnny Mitchum, a guy from Pine Bluff,
9 an African American from Pine Bluff whose name
10 escapes me, Win Rockefeller, another -- somebody from
11 eastern Arkansas who was a sheriff, I think. I don't
12 remember his name.

13 And we said, we are going to need your help
14 lobbying this bill through the committees on the
15 house and on the senate side, and then we are going
16 to need your help getting the votes necessary to
17 dedicate this revenue stream to this financing.

18 Q Okay. If I can just interrupt you for a
19 moment, and we will -- we will try to go through it
20 as methodically as possible.

21 A Sure.

22 Q Just to go back to the original contact you

1 had with Bob Snyder.

2 A And Paul.

3 Q Paul Young?

4 A Right.

5 Q You mentioned that Lasater and Dabbs
6 Sullivan and Wright, Lindsey had helped out the
7 governor when he was out of office?

8 A Correct.

9 Q What did they mean by that? How did they
10 help him or support him?

11 A I don't know how Dan directly supported
12 Bill. I don't know if he gave him money. I don't
13 know what kind of support. There was no -- there was
14 no secret that Dan and Bill were friends. There
15 just -- there was none. There was no secret to the
16 fact that Doobie Sullivan and Bill were friends.

17 In fact, I recall going to Doobie's office
18 and I think Doobie gave Bill an office and telephone
19 when everybody had turned his back on him, and I mean
20 literally. Stephens, our major competitor in Little
21 Rock, had worked just as hard as they could to run
22 him out of office.

1 And, when Frank White was elected, things
2 began to change radically in the state, I mean
3 radically, with regard to business, and who got what,
4 and who did what and things like that.

5 And so it was very clear, that while Bill
6 was out of office, Dan maintained his friendship with
7 him. It was clear that Doobie maintained his
8 friendship with Bill. They didn't abandon him. And
9 when he was elected, there were only a couple of
10 places that Raney could go.

11 They couldn't go to Stephens because
12 Stephens was going to compete for this business, and
13 they told me, I asked them why did you come to me, we
14 are just a little company. They said we know you, we
15 understand your ability. We understand that Dan has
16 a friendship with Bill. And we can't go anywhere
17 else. So by default, that's how they came to us.

18 Q And just for clarity, during that time
19 period, what was the level of friendship between
20 Mr. Lasater and the governor? Do you know if they
21 saw each other and how frequently they spoke or if
22 they met socially?

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1 A I don't know.

2 MR. FEINSTEIN: Are you talking about the
3 time period when the governor was out of office?

4 MR. O'CALLAGHAN: No, in '85.

5 THE WITNESS: Well, let me say that during
6 the campaign, Dan was very supportive, and very vocal
7 in his support, and so were many of us who really
8 didn't like Frank White and were very loyal to Bill.

9 BY MR. O'CALLAGHAN:

10 Q What year was that? Was that in the '82
11 campaign?

12 A Well, it was the second term, whenever that
13 was. I think that might have been '85 or '83. I
14 don't remember, Michael, but the campaign when he
15 came back and beat White, we were very supportive.

16 Q When White was still in office?

17 A Right.

18 MR. REDFERN: That was '82, I believe.

19 MR. O'CALLAGHAN: '82.

20 MR. REDFERN: '82 to '84, came back in '84.

21 THE WITNESS: Whenever the year was.

22 MR. FEUER: The witness doesn't know what

1 the year was.

2 BY MR. O'CALLAGHAN:

3 Q It was when White was still in office?

4 A Right. What was the question? I don't
5 remember the question. I'm sorry.

6 Q The question was --

7 A Did they see each other socially?

8 Q The nature of the friendship and how
9 frequently they saw each other.

10 A I don't know how frequently they saw each
11 other, but when I was in their presence, it was very
12 friendly. I would see Dan at the country club and
13 Bill would come by and say hi. He was one of
14 Arkansas phenoms, and Dan at the time was -- he was a
15 phenomenally successful guy. But I don't know about
16 how often they talked or how close they were or -- I
17 just wouldn't know that.

18 Q Okay. Well, how often would you say that
19 you were with Mr. Lasater when you ran into the
20 governor?

21 A When we ran into the governor?

22 Q When you saw him at social functions.

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1 A Well, clearly during the campaign, if --
2 if -- well, I -- I don't know how to answer the
3 question. I mean that's just -- I don't know. I
4 can't tell you 10 times or 20 times or 30 times, but
5 when -- when they saw each other they were cordial
6 and friendly to one another. I mean, I can't tell
7 you how frequently it was because I don't remember.
8 I do remember seeing them together. I do remember
9 when Dan would walk into campaign headquarters and I
10 would be there and Bill would walk in, they would be
11 friendly. I mean that was the nature of the
12 relationship.

13 Q Were you working on the campaign?

14 A I volunteered, yes.

15 Q How much time did you spend on the
16 campaign?

17 A I don't remember.

18 Q Was it full time or was it part-time?

19 A No, no, no. Part-time.

20 Q Were you working for Lasater & Company at
21 the time you were volunteering at the campaign?

22 A Yes.

1 Q Were there other employees of Lasater &
2 Company volunteering at the campaign?

3 A Yes.

4 Q How many people would you say volunteered
5 from Lasater & Company?

6 A The only one I remember specifically was
7 Patsy Thomasson.

8 Q How much time would you say she
9 volunteered, if you can give me a ballpark?

10 A More than me, but not full-time.

11 Q Were you in every day or once a week?

12 A No, I was a grunt. I didn't have any -- I
13 was there when they needed someone to go do
14 something. I didn't sit in the meetings and talk
15 about strategy and stuff like that. I helped raise
16 money, but I wasn't a full-time guy or political
17 junkie or anything like that. I liked Bill and
18 didn't like Frank White. Pretty clear choice to me.

19 Q How about just being in the office? How
20 often would you say Mr. Lasater talked to the
21 governor on the phone each week?

22 A I don't know. I don't know. I have no

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1 idea.

2 Q Do you know whether Mr. Lasater had any
3 specific conversations with the governor with regard
4 to the police radio network bond offering?

5 A I do not know.

6 Q Did you have any conversations with him?

7 A With Governor Clinton, no.

8 Q Did anyone at Lasater & Company that you
9 know?

10 A Not to my knowledge.

11 Q Did you ever hear that people did?

12 A I have heard a lot of rumors. I have heard
13 everything from I was personally lobbying Bill to
14 Stephens was personally lobbying Bill to try and stop
15 us from going forward with the legislation. So a lot
16 of rumors. I never talked to the governor about
17 this, or asked him to influence any decision. I
18 didn't -- it was not his style to do that. It was
19 more typical of him to say, you know, your ideas are
20 welcome. If you have an idea, take it to my
21 department head, go let them -- go convince them you
22 are the best and you can have the business.

1 (Recess.)

2 BY MR. O'CALLAGHAN:

3 Q Back on the record.

4 We were talking about Mr. Lasater's
5 relationship with the governor.

6 A Right.

7 Q And did you ever -- did you attend parties
8 that Mr. Lasater and the governor were both at at any
9 time between 1982 and 1985?

10 A Yes.

11 Q How frequently would you say you were at
12 parties they both attended?

13 A Very infrequently.

14 Q Do you have any idea of the number, any
15 number?

16 A Not more than two or three, in those
17 years.

18 Q And can you identify the parties where they
19 were both in attendance where you were there?

20 A Clearly a -- events, I think one was a
21 birthday party for Bill, one was an inaugural party,
22 one was a private party we were having at the Little

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1 Rock Country Club and Bill came by and said hello,
2 how are you, nice to see you.

3 Q Any others?

4 A Not that I can recall.

5 Q Any Christmas, Derby Day parties, Kentucky
6 Derby?

7 A Arkansas Derby.

8 Q Excuse me?

9 A We used to have Derby Day parties at Oak
10 Lawn Race Track, but I don't recall Bill being at
11 those. I only went to one of them at the time I was
12 there. He didn't come. Virginia was always there.

13 Q Virginia Clinton?

14 A Virginia Kelly.

15 Q Any firm Christmas parties?

16 A I don't remember Bill ever being at a
17 Christmas party.

18 Q Did you ever attend any parties at the
19 governor's mansion?

20 A No.

21 Q Birthday party for the governor, where was
22 that?

- 1 A I want to say it is at the fairgrounds, one
 2 of the buildings at the fairgrounds, but it could
 3 have been somewhere else. I don't remember exactly,
 4 but there were thousands of people there.
- 5 Q It was a big party?
- 6 A Oh, God, yes, a lot of folks.
- 7 Q How about -- was his inaugural similarly a
 8 big party?
- 9 A Major party.
- 10 Q What about at the country club?
- 11 A That was a private party Dan was hosting
 12 and Bill came by. He was with a group of people. As
 13 you know, the President is a gregarious guy and
 14 wishes everybody well.
- 15 Q Had he been invited to the party?
- 16 A Not to my knowledge.
- 17 Q What was the party for?
- 18 A I don't remember. It was a social event.
 19 It was -- I don't remember exactly what it was but
 20 there were -- husband and wife kind of thing.
- 21 Q Was the President with Mrs. Clinton at that
 22 event?

- 1 A Yes, he was.
- 2 Q You said they were with a group of people.
 3 Who else were they with?
- 4 A I don't remember.
- 5 Q When did that take place?
- 6 MR. FEINSTEIN: Are we on the private party
 7 at the country club?
- 8 MR. O'CALLAGHAN: Still there.
- 9 THE WITNESS: Michael, I don't remember.
 10 It was the last year I was employed there, earlier in
 11 that year, so it could have been like '85. I don't
 12 remember exactly.
- 13 BY MR. O'CALLAGHAN:
- 14 Q Which inaugural?
- 15 A The second one.
- 16 Q And the birthday party, do you know what
 17 year that was? Was that the same year?
- 18 A I don't remember. But it was in that
 19 period of '83 to '8 --
- 20 Q Was it a big birthday, 40th birthday or 35?
- 21 A Could have been a 40th birthday party.
 22 Could have been. If it was, then it was well after

1 '86. Maybe it was 35. I don't remember. It was a
2 birthday party. There's a lot of folks.

3 Q Can you put it in context of the police
4 bond underwriting -- I guess that's probably not the
5 way you measure your life -- the birthday party,
6 whether it was before or after that deal was done?

7 A I don't remember.

8 Q During the period '82 to '86 how would you
9 characterize your personal relationship with
10 Mr. Lasater?

11 A Well, I would say it started off real well
12 and ended very poorly.

13 Q Could you walk me through how it
14 progressed? Started well and why did it end poorly?

15 MR. FEINSTEIN: Before we go too far down
16 that path, I'm going to wonder whether we're getting
17 beyond the charter here. As I understand it, the
18 focus of this is supposed to be the bond underwriting
19 contracts between ADFA and Lasater & Company. We
20 have been reasonably close to that subject so far.
21 But it seems to me we are getting pretty attenuated,
22 and I guess I would like a little -- if you are able

1 to --

2 MR. O'CALLAGHAN: I can tell you --

3 MR. FEINSTEIN: Link it up or explain to me
4 why I shouldn't object at this point.

5 MR. O'CALLAGHAN: This line of questioning
6 with regard to the relationship with Mr. Lasater is
7 meant to elicit -- I have to be candid about it --
8 your knowledge of his relationship with the governor
9 and the dynamic and how that relationship related to
10 business that was done in the state, things of that
11 nature.

12 MR. FEINSTEIN: Before you -- are you
13 getting ready to answer? I will let him answer, but
14 I will reserve the right question by question to
15 object and perhaps instruct him not to answer.

16 MR. O'CALLAGHAN: Okay. And as you know,
17 if that happens, then if I feel that I need the
18 question to be answered with regard to the line of
19 questioning, I will direct him to answer anyway and
20 if you continue to object, we will have to take it to
21 the chairman.

22 MR. FEINSTEIN: Right, and we will. If we

1 get to that point, we will want an opportunity
 2 probably to consult privately. But let's take it
 3 step by step. I wanted to let you know I thought we
 4 were straying a bit.

5 MR. O'CALLAGHAN: It is appreciated.
 6 Thanks.

7 THE WITNESS: My impression of Dan
 8 Lasater's relationship with Bill Clinton was one, I
 9 would characterize it as Bill being impressed with
 10 Dan's achievements.

11 You have to keep in mind that Dan barely
 12 has a high school education. He would from time to
 13 time boast that he had never read a book from cover
 14 to cover. He was responsible for one of the great,
 15 great restaurant chains, Ponderosa, I mean singularly
 16 responsible for that achievement. He had come from a
 17 very humble background in rural Arkansas in White
 18 County, not far from where my family is from.

19 He became world -- he was in the Guinness
 20 Book of Records at the time as one of the greatest
 21 breeders of thoroughbreds in the history of the
 22 world. I mean, this is a guy who literally went from

1 nothing to becoming, you know, in the Guinness Book
 2 of World Records. You have to keep in mind Arkansas
 3 was the 39th ranked state in the country in about
 4 every category. It was an achievement that everyone
 5 was really proud of.

6 So I would characterize Bill -- Dan's
 7 relationship with Bill as being supportive of his
 8 political agenda, being a campaign supporter, and a
 9 personal supporter, and I would characterize the
 10 governor's as being one of loyalty to Dan for his
 11 help.

12 Dan -- I mean Dan owned horses with people
 13 like the Firestone family who owns the -- Yankees,
 14 the guy --

15 Q Steinbrenner?

16 A Steinbrenner, John Brown was a personal
 17 friend. I mean, there was just -- Dan knew a lot of
 18 folks, and they all treated him with that kinds of
 19 respect that Bill did, because of his achievements.
 20 So I don't -- I don't really -- I don't think I can
 21 characterize the relationship as being anything other
 22 than that. That's what I observed. My relationship

1 with Dan diminished over the years for just a variety
2 of reasons. Some are business related; some are
3 personal.

4 Q Are you still friends with Mr. Lasater?

5 A I have spoken with Dan twice since I left
6 the firm. And that was over a CNN report that he
7 asked me to talk to a reporter, and I agreed to do it
8 with counsel present.

9 Q Did that have anything to do with bond
10 underwritings?

11 A It had directly to do with bond
12 underwritings, yes, it did.

13 Q When did that occur?

14 A Two -- I am going to say two years ago. It
15 was shortly after Jean Lyons's article in Harper's,
16 and about that time The Wall Street Journal was doing
17 their business with the bond underwriting, the
18 mistaken articles they had written about all the
19 profits we derived from the profit in the bond
20 underwritings.

21 To answer your question, we are not
22 friends.

1 Q Okay. During the time period '82 to '85
2 when all these bond underwritings were going on, did
3 you attend any parties where the governor was where
4 people were using cocaine that you know of?

5 A Where the governor was attending?

6 Q Where he was in attendance.

7 A No.

8 MR. FEUER: I would wonder what the
9 relevance of that is to the underwriting.

10 MR. FEINSTEIN: I would, too. I want to
11 note for the record an objection to that question. I
12 know he's answered it.

13 MR. O'CALLAGHAN: That's fine. This
14 relates to propriety of the granting of underwriting
15 to those people involved in illegal activities.
16 Pretty much right on point.

17 MR. FEINSTEIN: Don't let my silence be
18 interpreted as acquiescence there.

19 BY MR. O'CALLAGHAN:

20 Q This is going to be two questions, two
21 degrees, and this is along the same line.

22 Whether or not you know whether the

1 governor had any knowledge of any type of law
2 enforcement investigations that were being conducted
3 into Mr. Lasater's use of cocaine, distribution of
4 cocaine during the period '82 through '85?

5 A No, I have no knowledge of that.

6 Q Have you heard that he did have knowledge?

7 A No, I haven't.

8 MR. FEINSTEIN: Just so we are clear, the
9 question was whether you had heard that the governor
10 had knowledge of that type of investigation.

11 THE WITNESS: No, I have not heard that
12 rumor.

13 BY MR. O'CALLAGHAN:

14 Q Do you have any reason to believe that he
15 would have knowledge of any investigations?

16 A No.

17 Q Are you familiar with Mr. Lasater's
18 relationship with Roger Clinton?

19 A I am.

20 Q And during the period of '82 through '85,
21 how would you characterize that relationship?

22 MR. FEUER: I don't see what his

1 relationship with Roger Clinton would have do with
2 bond underwriting.

3 MR. FEINSTEIN: I will join in that
4 objection.

5 MR. O'CALLAGHAN: It all has to do with
6 drug use within the firm and Mr. Lasater's drug use
7 and just seeing who had knowledge, when and where.

8 MR. FEUER: If that's the case, you might
9 try to quickly get to the point with the witness of
10 whether his understanding was that that had any
11 bearing on the bond underwriting contracts; if it
12 did, obviously then you can pursue it.

13 MR. O'CALLAGHAN: I want to build a
14 foundation as to what the relationship was between
15 the two of them.

16 MR. FEINSTEIN: Why don't we take it
17 question by question.

18 BY MR. O'CALLAGHAN:

19 Q What was the nature of the relationship
20 between Mr. Lasater and Roger Clinton?

21 A They were friends.

22 Q Were they close friends?

1 MR. FEINSTEIN: Objection on the grounds
2 that was ambiguous.

3 THE WITNESS: They were friends. They were
4 more than acquaintances and less than -- it was not a
5 father-son relationship. They were friends. Roger
6 was an employee at the time, so --

7 BY MR. O'CALLAGHAN:

8 Q Did they go out to bars together, go to
9 dinner together?

10 A Occasionally.

11 Q Was -- during the period '82 through '85,
12 was -- as far as you know was Mr. Clinton aware of
13 Mr. Lasater's drug use?

14 A Roger Clinton?

15 Q Correct.

16 A Yes, I would imagine he was aware.

17 Q What's the basis for your belief that he
18 was aware?

19 A I read it in the newspapers.

20 Q Do you know, or have you ever heard whether
21 Roger Clinton told the governor about Mr. Lasater's
22 drug use during that time period?

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1 A No.

2 Q During the period '82 through '85, were
3 there a number of people at the firm engaging in drug
4 use, cocaine, at Lasater & Company?

5 MR. FEINSTEIN: I want to object to that
6 question, as -- I haven't heard yet what -- how
7 that's going to be -- based on what he told you about
8 his knowledge concerning the -- any knowledge that
9 state officials may have had about drug use, I am
10 going to object on the grounds of relevance and it
11 being outside the scope of your charter. If you can
12 explain to me how it connects, I will reconsider it.

13 MR. O'CALLAGHAN: Same explanation as I
14 asked specifically on Mr. Lasater any drug use at the
15 firm. I can go right to the question whether the
16 governor had knowledge of -- first, set the
17 predicate, whether there was drug use at the firm,
18 that you are aware of, and then from there I will go
19 on to the next question, to the knowledge --

20 MR. FEUER: The problem is none of it --
21 you have asked several questions on this line. None
22 of it is yet getting any closer to bond underwriting

1 contracts between Lasater & Company and the ADFA.

2 MR. O'CALLAGHAN: It goes towards the
3 granting of the bond underwriting contracts --

4 THE WITNESS: Could I have a break to talk
5 with my counsel?

6 MR. O'CALLAGHAN: Absolutely.

7 MR. FEINSTEIN: There may be a way around
8 this, but let us talk about it.

9 MR. O'CALLAGHAN: Certainly. Let's go off
10 the record.

11 (Discussion off the record.)

12 MR. O'CALLAGHAN: Back on the record.

13 MR. FEINSTEIN: Mr. Drake wants to
14 supplement his answer to an earlier question that you
15 asked him regarding any basis that he might have for
16 Roger Clinton's knowledge that or awareness that Dan
17 Lasater used cocaine. I believe you asked him that
18 question.

19 MR. O'CALLAGHAN: Correct.

20 MR. FEINSTEIN: And he indicated that he
21 had read that in the newspaper. He would like to
22 supplement his answer to that question now.

1 THE WITNESS: I also observed them using
2 cocaine together.

3 BY MR. O'CALLAGHAN:

4 Q I am not sure if I asked this, and if I
5 did, I won't ask it again because I don't need it
6 answered twice. I may have lost my train of thought
7 at the break. The question I wanted to ask
8 was whether or not you have knowledge -- whether or
9 not -- actually, I did ask the question. So let me
10 strike that last comment.

11 Did Governor Clinton ever ask Mr. Lasater
12 to assist Roger Clinton in finding a job?

13 A Not to my knowledge.

14 Q How did Roger Clinton come to work for
15 Mr. Lasater?

16 A I'm not privy to that. I do know he worked
17 for Dan. I don't know how it came about. I wasn't
18 involved in that.

19 Q In what capacity did he work for him?

20 A My information is that he worked at the
21 farm for Dan.

22 Q In Ocala?

1 A In Ocala is my understanding, but that's
2 not a firsthand understanding. That's just -- that's
3 what I think; if he worked, that's where he worked.
4 I may have read that. I may have heard it. I do
5 know he was employed by Dan and I do know that he
6 worked during the period that I was there. I think
7 it was at the farm.

8 Q Do you know how long he worked for him,
9 what period of time?

10 A No.

11 Q Was it the whole time you were at the firm
12 or was it part of the time?

13 A It was toward the end of my tenure, and I
14 would not know how long it was, but it was in the
15 second half of the three years I was there. I would
16 say it occurred during that period, not for the
17 entire period because I don't know how long it was,
18 but it occurred in that period.

19 Q You said earlier you had observed both --
20 you had observed Mr. Lasater and I believe you said
21 Mr. Clinton?

22 A Roger Clinton.

1 Q Roger Clinton doing cocaine. How many
2 times were you in contact with Mr. -- with Roger
3 Clinton and Mr. Lasater, in the social setting during
4 the time you were employed there?

5 A Women, the only time I saw them together
6 was in a social -- well, I saw them once in Dan's
7 office, together, discussing horses. Every other
8 time that I can recall seeing them was at a social
9 occasion.

10 Q Okay.

11 A And maybe a dozen times over the period of
12 time that I knew Roger.

13 Q Did the governor attend any of those social
14 occasions?

15 A I don't recall ever seeing the three of
16 them together.

17 Q When you -- would you say Mr. Lasater was
18 better friends with Roger Clinton than Bill Clinton,
19 or was there a difference in the relationship?

20 A I saw Roger and Dan together more
21 frequently than I saw Bill and Dan, so just on that
22 basis I would say that Roger and Dan had a closer

1 relationship than Dan and Bill, just on the basis of
2 the frequency of the association.

3 Q Do you know what type of employment Roger
4 Clinton was receiving from Mr. Lasater during the
5 time period he was employed --

6 A No.

7 Q Was he employed by the firm or was he
8 employed by a separate entity, do you know?

9 A I don't know. I would be surprised if it
10 was Lasater & Company. I would imagine it would be
11 Lasater Farms, which was the name of the breeding
12 operation in Ocala.

13 Q Is that still in operation?

14 A No, it's been liquidated. Well, it's still
15 there, but Dan doesn't own it. Put it that way.

16 Q It is no longer Lasater Farms?

17 A No, he sold that just before I left, and
18 all his thoroughbred operations.

19 Q Do you know whether or not Dan Lasater ever
20 loaned any money to Roger Clinton?

21 A I have no personal knowledge of that
22 although I have read about that in the paper.

1 Q Do you know about that from any other
2 sources, anyone who has told you about it?

3 A No.

4 Q Do you have any knowledge of when the first
5 time that anyone in the governor's office learned
6 that Dan Lasater provided Roger Clinton with a loan?

7 A No.

8 Q Have you ever heard when someone in the
9 governor's office first learned that?

10 A No.

11 Q Did Dan Lasater ever assist Roger Clinton
12 with any legal costs associated were any kind of
13 legal problems he might have been involved in?

14 A Not to my knowledge.

15 THE WITNESS: My stomach is starting to
16 growl.

17 MR. FEINSTEIN: Are you getting close to a
18 stopping?

19 MR. O'CALLAGHAN: We are pretty near a
20 natural break. Let me make sure I covered what I
21 needed to.

22 Okay. I have one more on this line and

1 then we can take a lunch break.

2 THE WITNESS: Right.

3 BY MR. O'CALLAGHAN:

4 Q Did Governor Clinton ever attend any
5 parties at apartment 12-B in Quapaw Apartments?

6 A Not to my knowledge.

7 MR. O'CALLAGHAN: Why don't we go off the
8 record.

9 MR. FEUER: Let me ask a few questions so
10 we won't have to go back to this area after the
11 break.

12 EXAMINATION

13 BY MR. FEUER:

14 Q How long was Governor Clinton at the
15 private party at the Little Rock Country Club that
16 Mr. Lasater hosted?

17 A Governor Clinton did not attend the party.
18 He was passing the party.

19 Q Was he on his way to another event at the
20 country club?

21 A He was leaving the country club and he
22 stopped by to say hello. If I led you to believe

1 that he was invited to the party, I didn't intend
2 that. I stopped by, shook hands, Hillary said hello,
3 they were gone.

4 Q So they were --

5 A 30 seconds.

6 I hope I didn't mislead you on that.

7 MR. O'CALLAGHAN: No, you didn't.

8 Off the record.

9 (Discussion off the record.)

10 (Whereupon, at 1:20 p.m., the deposition
11 was recessed, to be reconvened at 2:20 p.m. this same
12 day.)
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AFTERNOON SESSION (2:32 p.m.)

Whereupon,

MICHAEL J. DRAKE

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

MR. O'CALLAGHAN: Back on the record.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Mr. Drake, did you say earlier this morning that you believed that Lasater & Company did some of the underwriting for the AHDA deals?

A Yes.

Q Do you know when that participation took place, during what years?

A It would be -- well, they were co-managers when I arrived on the scene, so that would be like 1982 or '83. As I recall, they were already co-managers on a sporadic basis, as I recall. I think it was like deal by deal, not permanent, so it would have been '82-83.

Q Had Governor Clinton been reelected yet or was that prior to his reelection, if you recall?

120

A That was prior to the reelection, I am pretty sure. I am pretty sure it was.

Q Okay. When ADFA came into being, did AHDA cease to exist or was it a metamorphosis or how did that work?

A It would be fair to say that ADFA was a successor of AHDA. They inherited those powers plus many more. And if I am not mistaken the board was expanded, and the staff functions were expanded accordingly. In fact, I think the reason -- I think there were geographic requirements for board appointments. They had to be --

Q Certain districts?

A Certain districts, I think, and certain professions, things like that.

MR. O'CALLAGHAN: I would like to show you a document, multipaged document which consists of a chart. The title of the chart as represented on the first page reads "ADFA (and AHDA) use of professional firms as underwriters and bond counsel." It is a four-page document Bates stamped DKS N 026151 through 026154.

1 And I would like to direct your attention
2 to the first three boxes that are -- we will look at
3 it together. The document, the chart has four
4 different columns that read "period," it says "lead
5 underwriters," "other underwriters" and "bond
6 counsel." And then in each box it has information
7 that pertains to the heading.

8 And in the first three rows, I guess, the
9 1978 AHDA is the first one, 1979, 1980 AHDA is the
10 second one. 1981-1982 AHDA is the third one and it
11 purports to list -- appears to list the underwritings
12 that were undertaken by AHDA during the time period
13 and then under "other underwriters," there doesn't
14 appear to be a listing for Lasater & Company.

15 A Until you get here.

16 Q Until you get to '83-84, and I just wanted
17 to ask you if that's consistent with your
18 recollection as to the participation Lasater &
19 Company had on these bond underwritings?

20 A This is when Hutton had done the issue I
21 had talked about that put the agency in so much
22 jeopardy and then Blythe Eastman and PaineWebber came

1 in, with George K. Baum, which was B-a-u-m.

2 Q Is that consistent with your recollection
3 that Lasater didn't start participating until 1983?

4 A That would be about right.

5 Q Thank you.

6 Did Lasater & Company have involvement with
7 private activity bonds that are associated with ADFA?

8 A Not to my knowledge. Do you mean like
9 industrial development? Not to my knowledge.

10 Q Correct?

11 A I know there was a pool of securities that
12 were sold, but I don't know if we ever did that. I'm
13 not -- I don't recall us ever doing that.

14 Q Okay. We were discussing earlier
15 Mr. Lasater's relationship with Governor Clinton.
16 And I wanted to show you another document, Bates
17 stamp DKS N 027573 through 027574. And it is a letter
18 on the Lasater & Company letterhead, dated February
19 15, 1985, addressed to Governor Clinton, and it is
20 signed by Dan R. Lasater.

21 I want you to take a moment to review it
22 and show it to your counsel and let me know when you

1 have had a chance to look at it and I will ask you
2 couple of questions.

3 (Witness reviewed the document.)

4 A Okay, I read these, this letter.

5 Q The first question is, have you seen this
6 letter before?

7 A I don't recall ever seeing this letter.

8 Q If I can direct your attention, I would
9 like to direct your attention to the second page.
10 The second paragraph there reads, "in addition, we
11 would be more comfortable if you would take the
12 opportunity or ask someone on your staff to take the
13 opportunity to apprise me or my staff of any actions
14 by you or your staff prior to any public
15 announcements so that we will not be surprised or in
16 some instances embarrassed because of the
17 announcements."

18 Do you know if that kind of relationship
19 ever existed with the governor's office and Lasater &
20 Company?

21 A No, I don't.

22 Q Did you ever -- were you aware that that

1 request was made?

2 A I don't recall being aware of that.

3 Q Did that request surprise you in any way?

4 A Does it now surprise me?

5 Q Sure, now.

6 A Well, I don't -- I don't know what context
7 this was written in. I don't know what he means by
8 "public announcements" or "embarrassing situations,"
9 so I -- if he was embarrassed by a public
10 announcement, and he wants prior knowledge, that
11 would not surprise me. I would want that, too.

12 Q Do you know if that had to do with having
13 advance knowledge of bond offerings or projects that
14 were going on?

15 A I don't know what that refers to.

16 Q Next I would like to direct your attention
17 to the following paragraph which reads "finally, I
18 believe it would serve us both well to have regularly
19 monthly meetings between the two of us to discuss the
20 effects of the economy on Arkansas. Bill, I do not
21 ask for this to have undue influence or to try to
22 apply undue pressure to you or your administration,

1 but because of my background in business, I believe
2 that I can make a positive contribution to you in
3 your efforts to promote a better climate in the state
4 of Arkansas."

5 Are you aware that -- were you aware that
6 this request was made to the governor by Mr. Lasater?

7 A No.

8 Q Do you know if that request was granted by
9 the governor?

10 A I don't know.

11 Q Would meetings of that frequency be
12 consistent with your understanding of their
13 relationship in that time period?

14 A I don't know if I would characterize their
15 relationship as one in which they would have much in
16 the way of meetings to discuss specific issues.

17 Q Do you know if they had meetings to
18 discuss --

19 A I have no idea.

20 Q Did Mr. Lasater ever go to the governor's
21 mansion to have meetings with him to discuss issues
22 of meaning to him?

1 A Dan did go to the mansion and I don't know
2 what he talked about. He told me he went to the
3 mansion. I don't know what they talked about.

4 Q Do you know how frequently he went over?

5 A No.

6 Q Have you ever been told how frequently he
7 went over?

8 A No, I have never been told.

9 Q Are you aware of specific instances where
10 he went over there, to the mansion?

11 A I am familiar with one that we went to
12 together. It was a reception for -- it was a
13 reception for some entertainer or someone who was
14 coming to Little Rock, and the press was there and we
15 were there, and that's all I recall about it. It
16 wasn't a sit-down private meeting with Dan, the
17 governor and me to talk about, you know, things that
18 would be contained in that paragraph.

19 Q Any discussions about bond business?

20 A No.

21 Q I would like to show you a document now,
22 Bates stamped DKS N 027451, a one-page document on

1 Collins Locke & Lasater stationery dated March 31,
2 1983, addressed to the honorable Bill Clinton, and
3 signed David Collins. If you take a moment to look
4 at that and let me know when you have had a chance to
5 review it.

6 (Witness reviewed the document.)

7 A Okay. I have read this.

8 Q Have you seen that letter before?

9 A I don't recall seeing this before.

10 Q I asked you earlier about whether the
11 governor had attended Derby Day parties that you had
12 been to.

13 A Yes, you did ask me that.

14 Q And in this letter, there is a mention in
15 the last paragraph which says "I am looking forward
16 to welcoming you and Hillary to our Derby Day party.
17 I hope you will be able to attend."

18 Does that refresh your recollection as to
19 whether they attended any Derby Day parties?

20 A It does not.

21 Q Is this Derby Day party a party that would
22 have included Mr. Lasater, as far as you know?

1 A The one I attended did include Mr. Lasater.

2 Q Did Mr. Lasater or Mr. Collins go to Derby
3 Day parties together?

4 A I didn't attend this one so -- I recall
5 them talking about having a Derby Day party for the
6 Arkansas Derby, which is the last event of the racing
7 season in Oak Lawn. The only one I remember
8 attending was Lasater & Company.

9 Q When does the Arkansas Derby take place?

10 A At the end of the racing season.

11 Q Which is?

12 A In the spring.

13 Q Would it have been in and around March 31?

14 A It would have been later than that, around
15 Easter, around the time the azaleas are in bloom. It
16 is usually in April. Depends on how many racing
17 days. They change every year.

18 Q I would like to have you take a look at a
19 two-page document Bates stamped DKS N 027455 and
20 027456. It's a letter on Lasater Farm letterhead
21 dated December 14, 1983, addressed to The Honorable
22 Bill Clinton and signed by Mr. Lasater. Take a

1 moment to review that and let me know when you have
2 finished.

3 (Witness reviewed the document.)

4 A George Wright was the fellow's name.

5 Q That was the fellow in the ADFA board you
6 referenced early this morning?

7 A Yes, that I couldn't remember the last
8 name.

9 (Pause.)

10 Okay, I read the letter.

11 Q The first question is, have you seen the
12 letter before?

13 A I have not.

14 Q A couple of specific questions I want to
15 ask you about.

16 First of all, you said you personally were
17 lobbying George Wright; is that right?

18 A Yes, I did.

19 Q How did you know George Wright?

20 A I met George when he was appointed to the
21 board.

22 Q You didn't know him previously?

1 A No, I did not.

2 Q Did Mr. Lasater know George Wright?

3 A It is my recollection he did not. George's
4 appointment was largely regarded as one brought to
5 the fore by Doobie Sullivan. I could be mistaken,
6 but that's my recollection.

7 Q Do you have any more specific recollection
8 than that?

9 A No.

10 Q First full paragraph on the second page,
11 says "with regard to the board of the Arkansas
12 Housing Development Agency, it is our understanding
13 that the chairmanship rotates annually. Based on
14 this understanding, we would like to recommend our
15 mutual friend George Wright for the chairmanship.
16 George has expressed an interest in the chairmanship,
17 and I believe he would take the time and devote the
18 energy necessary to do a good job."

19 Were you aware that Mr. Lasater made that
20 recommendation?

21 A I don't recall being aware of it, but I
22 could have been aware of it at the time. I am not

1 saying it is beyond -- I just don't know. I don't
2 remember it, but I could have.

3 Q And just seeing that expression, "recommend
4 our mutual friend George Wright," does that refresh
5 your recollection as to how they knew each other or
6 that they were friends?

7 A You mean was George a friend of Bill's?

8 Q Of Dan Lasater.

9 A I knew George when he was appointed to the
10 board. I don't recall him and Dan being friends, but
11 they could have been. As I recall, George is from
12 Hope and certainly Governor Clinton -- I would not
13 expect him to appoint someone he didn't know and
14 trust. It could be that Dan knew him, but I don't
15 know that he did. Do you have any idea how long he
16 was on the board at that time, had been on the
17 board?

18 Q I wouldn't want to --

19 A I am just saying.

20 Q You are putting me on the spot.

21 A It is likely that Dan would know him.

22 MR. COLE: You can put him under oath.

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1 MR. FEINSTEIN: If you want to go off the
2 record to try and do that, that's fine.

3 MR. O'CALLAGHAN: It is not that critical.

4 THE WITNESS: If George was a member of the
5 board, Dan knew him. Dan made a point of knowing
6 those people. And --

7 BY MR. O'CALLAGHAN:

8 Q Did Mr. Wright ever express an interest to
9 you in the chairmanship of the FDHA board?

10 A Not that I recall.

11 Q Did you recommend him as a possible
12 candidate for chairman?

13 A I could have. I could have. But I don't
14 remember doing it, but I could have.

15 Q He made recommendations to the governor
16 with regard to people for AHDA board or
17 chairmanships, and the ADFA board and chairmanship,
18 did he typically run that by you first?

19 A It depends.

20 If it was -- if it was a board or
21 department head that had a direct bearing or indirect
22 bearing on our business, he would. He -- and many

1 times I would take the ideas to him when he was not
2 aware of it, that there was a vacancy, clearly with
3 the insurance commissioner there was one, with the
4 securities commissioner, obviously, and all the
5 boards and commissions we tried to have as much
6 influence as we could.

7 Q So, for like every ADFA board vacancy he
8 would make a recommendation for, he would consult
9 with you before making that recommendation?

10 A I don't know if I would say that. I would
11 say that he would probably consult with me more than
12 not.

13 Q Anyone else he would have consulted with
14 other than you?

15 A He would have consulted with Patsy.

16 Q Patsy Thomasson?

17 A Yes. And at the time Rick Knox was the
18 president of the company, he would have consulted
19 with Nick.

20 MR. FEUER: May I ask a question on that
21 letter before we move off of that?

22 MR. O'CALLAGHAN: Sure.

EXAMINATION

2 BY MR. FEUER:

3 Q Mr. Drake, do you see a sentence in the
4 second page of that letter, page 27456, the paragraph
5 that begins "during the recent special session"? Do
6 you see a sentence I am going to quote from the
7 letter, "we would like to recommend Michael Drake,
8 vice president of public finance at Lasater &
9 Company, to serve on the commission"? Do you see
10 that sentence?

11 A Yes, I did.

12 Q Did you serve on the --

13 A I did.

14 Q You did? When was that? What year was
15 that?

16 A I would just guess it was the spring of
17 '84. This letter is dated December 14. I remember
18 it was in the spring, so I will say it was '84. And
19 it was chaired by Senator Ben Allen, and all the
20 investment firms in Little Rock, as I recall, had a
21 member appointed to that commission.

22 Q I guess I should make clear which

1 commission --

2 A It was a public school finance commission
3 is what I recall it being named. It was a commission
4 to study alternatives to -- this is when the
5 education reform was occurring in the administration,
6 and in Arkansas. We had hundreds of school districts
7 and we were considering pooling credit ratings to
8 issue securities and then loan the money to the
9 districts instead of having the inefficient sale of
10 300 different securities every year, among other
11 things.

12
13 Q Actually, I have one more question on this
14 document. Just the first paragraph it says dear
15 bill, it was a pleasure to see you yes at the hot
16 springs Christmas to share program; did you attend
17 that?

18 A I did not. I don't know what it is.

19 Q Mr. Drake, did you ever hear that ADFA was
20 used as a means for laundering money for any reason?

21 A No.

22 Q Never heard that?

1 A No, I haven't heard that one.

2 Q Did Mr. Lasater ever mention to you any
3 money washing or laundering that he might have done
4 through ADFA or any other means?

5 A No, sir.

6 MR. O'CALLAGHAN: Can we go off the record
7 for a second.

8 (Discussion off the record.)

9 (The reporter read the record as requested.)

10 (Discussion off the record.)

11 MR. O'CALLAGHAN: We are back on the
12 record. While we were off the record, we had the
13 last question reread, and counsel, would you like to
14 make a clarifying statement.

15 MR. FEINSTEIN: Yes. Maybe the best way to
16 do it is just to ask the question. Having heard that
17 last question reread, was it your understanding that
18 the question was limited to any money washing or
19 laundering involving ADFA?

20 THE WITNESS: Yes.

21 BY MR. O'CALLAGHAN:

22 Q Going back to the police radio bond

1 underwriting, I would like to get back to -- you said
2 that your first contact was with Bob Snyder and Paul
3 Young at T.J. Raney?

4 A Right.

5 Q Approximately two years before the offering
6 took place or --

7 A It was before the offering took place, and
8 before the legislation was passed enabling the
9 structure of the deal.

10 Q Did they ever tell you how they got wind
11 that this type of financing might be coming up or
12 that they were looking to do a financing of this
13 nature?

14 A They did. To the best of my recollection,
15 it was discussed in a committee meeting, either
16 the -- excuse me, either the house or the senate or
17 it appeared in a newspaper article and they picked up
18 on the need to do the financing.

19 Q Was it a common practice for the police
20 commission to do bond underwritings?

21 A I was not aware of them ever doing a bond
22 underwriting prior to that date. They had no

1 published credit rating. I don't know of any that
2 they had done before that.

3 Q Do you know where the idea for doing a bond
4 underwriting to finance this project came from?

5 A It came from Paul and from Bob.

6 Q Did you participate in helping draft the
7 legislation in connection with -- the legislation
8 that enabled the offering?

9 A Yes.

10 Q What role did you have?

11 A Mine was limited to the cash flow source,
12 and the security of the cash flow being dedicated to
13 the repayment of the bonds. But our lawyers drafted
14 most of the language. I was just -- I was in a
15 comment kind of mode.

16 Q And your lawyers were with what firm?

17 A Mitchell, Williams, Selig, Jackson, et al.
18 And I might point out one thing. We specifically
19 chose that firm because they had no prior contacts
20 with any other agencies. They had no bond
21 underwriting contracts, to my -- at that time, with
22 anybody, that is a prolific issuer of bonds. We

1 wanted a fresh look, so we went to them. John Selig
2 was a former securities commissioner and they had --
3 their constitutional law department was top rated,
4 so --

5 Q You mentioned earlier Mr. Young and Mr. --

6 A Snyder.

7 Q -- Snyder also indicated that one of the
8 reasons they favored the firm was because they had
9 also helped out Mr. Clinton during '80-'82?

10 A Who?

11 Q The firm.

12 A Lasater?

13 Q No, I thought you said the law firm had as
14 well.

15 A No, I said --

16 MR. FEINSTEIN: Hold on.

17 MR. COLE: I don't understand the question.

18 MR. FEINSTEIN: I am not sure there is a
19 question pending.

20 MR. FEUER: It is a different firm.

21 MR. FEINSTEIN: I want to be sure we have a
22 clear question before you say anything.

1 MR. FEUER: I think you will find it was a
2 different law firm.

3 THE WITNESS: It was Wright Lindsey
4 Jennings that was favorable to Bill. That was the
5 firm he used to work for.

6 BY MR. O'CALLAGHAN:

7 Q They were not used?

8 A Yes.

9 Q That's precisely the question I meant to
10 ask. I apologize.

11 MR. FEINSTEIN: And that's what you weren't
12 supposed to say until you said it.

13 THE WITNESS: That's two mistakes I have
14 made today.

15 BY MR. O'CALLAGHAN:

16 Q Who made the decision to take on the
17 Mitchell, Williams firm?

18 A I am pretty sure it was Paul and Bob that
19 suggested it. I'm reasonably sure it was them.

20 Q Was there specifics --

21 A Although I had a relationship with them and
22 I could have referred them, but Paul had a very close

1 relationship with Ann Ritchie and John Selig and
2 liked them, both really competent securities
3 attorneys.

4 Q You said one of the areas was identifying
5 cash flow source; is that right?

6 A Yes.

7 Q Could you explain to me what that means?

8 A Right. The constitution of the state of
9 Arkansas states that without special legislation no
10 securities can be issued without a vote of the
11 people. I mean, it has to be a general obligation
12 issue.

13 Arkansas citizens are very adverse to debt
14 securities, so we came up with a method that would
15 enable the State Police Commission to buy this radio
16 equipment by dedicating a specific source of revenue
17 from the general fund to this purpose, and that it
18 was only tied to the rehire of the bonds. We began
19 researching where we might find the moneys and avoid
20 violating the constitution of the state, so that was
21 the source we came up with.

22 Q And that was a license renewal?

1 A Right. They redeemed special revenues
2 instead of general.

3 Q Who did you work with to do the research
4 into this issue?

5 A I worked with the state treasurer's office,
6 with the state treasurer, Jimmie Lou Fisher. I
7 worked with Bob Nash in the governor's office, I
8 would have worked with someone at DF&A, but I don't
9 recall who it was, Department of Finance and
10 Administration. It didn't take us long to identify
11 the revenue source, though.

12 Q Was there ever any thought given to having
13 ADFA issue these bonds?

14 A I don't remember. There could have been,
15 but I don't remember. I don't know if ADFA was
16 empowered to do that at the time. As I recall, we
17 had to -- it would take an amendment to the ADFA
18 legislation, and I think I also recall that there was
19 no specific revenue source and ADFA was prohibited
20 from issuing securities without an identified revenue
21 source. They couldn't issue GO bonds and there was
22 no source of revenues for the police bonds.

1 But --

2 MR. COLE: So the record is clear,
3 Mr. O'Callaghan asked you initially if there was any
4 consideration given to ADFA issuing the bonds and I
5 believe I heard -- I understood you to say that you
6 didn't recall that, but then the next information you
7 gave us would indicate that there was some
8 consideration, so I am a little confused.

9 THE WITNESS: I don't recall consideration
10 going to ADFA, because they weren't empowered to do
11 it, as I remember.

12 MR. COLE: But someone at least looked into
13 the possibility that they could at least do it or you
14 knew that without --

15 THE WITNESS: I don't remember that. We
16 could have looked into it, but most of it -- at the
17 time, as I recall, we had just come out of the
18 session that ADFA was part of the economic
19 development package and we were all very familiar
20 with what they could and couldn't do.

21 But, we could have. It's -- it's something
22 that could have occurred. I just -- it is a long

1 time ago.

2 MR. FEINSTEIN: You don't have any specific
3 recollection that that did occur?

4 THE WITNESS: No, but I can't say that it
5 didn't.

6 BY MR. O'CALLAGHAN:

7 Q This may be of assistance. I hope this
8 adds value to the discussion. I am going to show you
9 a document multipaged, 17 pages, Bates number DKS
10 017877 through 017893. The first section says "bill
11 for an act to be entitled." I will read the title of
12 this, and I will let you look at it.

13 It says "an act to authorize the
14 acquisition, installation and operation of a
15 statewide radio communication system for the use of
16 the Arkansas State Police, authorizing the
17 construction, equipping and operation of buildings,
18 other facilities for the purpose of housing inmates
19 committed to the custody of Department of Correction
20 and for the purpose of construction, equipping and
21 operation of facilities for the expansion of the
22 prison, agriculture and industry programs,

1 authorizing issuance of revenue bonds for the
2 financing thereof, providing for the payment and
3 security of such bonds, including the pledging of
4 various fees, and for other purposes."

5 Look at that.

6 (Witness reviewed the document.)

7 MR. FEINSTEIN: Is there something of
8 specific importance you want him to look at?

9 BY MR. O'CALLAGHAN:

10 Q The second page, it should become
11 apparent.

12 A I have never seen this.

13 MR. FEINSTEIN: Do you want him to read the
14 whole thing?

15 MR. O'CALLAGHAN: No, if he has seen the
16 second page, that should do it.

17 MR. FEINSTEIN: He hasn't asked you a
18 question yet.

19 BY MR. O'CALLAGHAN:

20 Q The first question, have you seen this
21 before?

22 A I don't recall seeing this before.

1 Q Does this refresh your recollection as to
2 whether ADFA had been considered as being the issuing
3 entity for the police radio bonds?

4 A No, it doesn't.

5 Q Thanks. Do you recall approximately when
6 it was that Mr. Snyder and Mr. Young approached you
7 about first putting together this deal?

8 A What time of the year?

9 Q What year and what month.

10 A I don't. I'm sorry.

11 Q Was the subject of the police radio brought
12 up in the January 10 -- or at the meeting at the
13 Legacy Hotel, do you recall, which I believe took
14 place January 10th?

15 A January 10th, '8 --

16 Q '85.

17 A I don't remember it coming up.

18 Q Other than discussions you might have had
19 with Bob Nash with regard to the identifying the cash
20 flow source, did you have any other discussions with
21 him with regard to this offering?

22 MR. COLE: "This offering" being the police

1 radio?

2 MR. O'CALLAGHAN: Correct.

3 THE WITNESS: No. We -- I worked with Bob
4 in the legislative process because it was part of his
5 responsibility, but I don't recall talking to Bob
6 about the issuance of the securities, the actual bond
7 issue.

8 BY MR. O'CALLAGHAN:

9 Q Did you talk to anyone else in the
10 governor's office about the police bond issue?

11 A I talked to Betsey Wright about the
12 legislative process, about getting the stuff --
13 getting the act passed.

14 Q Were any other firms involved in speaking
15 with the governor's office about getting the act
16 passed?

17 A That I don't know.

18 Q Considering it had been in process and how
19 the -- how that worked, looking back on it, would it
20 make sense that other firms would be working to get
21 the legislation passed? Do you have any idea?

22 A Well --

1 MR. FEINSTEIN: Object to the form of the
2 question.

3 If you can answer it without speculating,
4 go ahead.

5 THE WITNESS: My answer would be we didn't
6 advertise that we were doing this. You know, it was
7 T.J. Raney and Lasater & Company that had come up
8 with the idea.

9 BY MR. O'CALLAGHAN:

10 Q Did there come a time when the commission
11 asked for competitive bids?

12 A Yes.

13 Q And when did that occur?

14 A After the act was passed, and it became
15 law. I will say in that following summer. I don't
16 know if there was an emergency clause on it or not.
17 Seems like it was in the summer. I don't recall
18 exactly the month.

19 MR. FEINSTEIN: Read that back.

20 (The reporter read the record as requested.)

21 BY MR. O'CALLAGHAN:

22 Q When did the Hutton/Lasater/Raney group

1 make its first proposal to the financing of the
2 police radio bonds?

3 A I remember it being -- the process was to
4 submit proposals based on the RFP, and then we were
5 invited to make oral presentations, and I -- I don't
6 remember exactly the dates or the times, but I
7 remember we all made them on the same day, at the
8 State Police Commission, in the state police
9 headquarters.

10 Q Did the Hutton/Raney/Lasater group make any
11 proposals before that?

12 A I don't remember.

13 Q You said it was your always idea and
14 whether -- I am trying --

15 A You know, I -- I don't remember exactly
16 what we did. But I do remember talking with Colonel
17 Goodwin about -- who was at the time the head of the
18 police, the state police, about the financing, and it
19 seems to me that he told us that it would be handled
20 by state purchasing. We were going to have to talk
21 about the state purchasing rules at Exlerban,
22 E-x-l-e-r-b-a-n department. And his aid is Dudley

1 Miles.

2 Q I am going to show you a document. This
3 might help refresh your recollection. I probably
4 should have shown it to you before I asked the last
5 question. It is Bates stamped DKS N 017894 through
6 017904, and the first page, T.J. Raney & Sons,
7 E.F. Hutton and Lasater across the masthead, February
8 25, 1985, addressed to Colonel Thomas Goodwin,
9 director, Arkansas State Police, and it is re: state
10 police communications financing.

11 I will have you take a look at that
12 generally. Let me know when you have had a chance to
13 look at it.

14 A Okay.

15 Q Yes.

16 (Witness reviewed the document.)

17 A Oh, I am familiar with this.

18 Q You have seen this before?

19 A Yes, I have.

20 Q What does that document represent?

21 A It is a proposal to Colonel Goodwin
22 regarding the financing of the state police

1 communications system.

2 Q And was this submitted before the RFPs went
3 out?

4 A Yes.

5 Q How did that come about?

6 A I think we just submitted it. I think we
7 just gave it to him. I don't remember exactly why we
8 did it, but I think we just did it. Here we are, we
9 are ready to go.

10 Q Did you get any response?

11 A I don't remember what the response was,
12 other than I know what we ended up with a request for
13 proposals and so I would just assume that it was
14 turned down.

15 MR. COLE: Before we leave, can I ask a
16 clarifying question on this topic?

17 Do you know whether for this particular
18 financing that was being contemplated that's the
19 subject of that February 1985 document, whether there
20 was a requirement that a RFP process be followed?

21 THE WITNESS: I -- I don't know if there
22 was, if there was requirement or not.

1 MR. COLE: So you have no reason to believe
2 that had they chosen to do so, that the state
3 authorities could have gone with the sole source,
4 essentially, contract procedure.

5 THE WITNESS: Well, they sole sourced the
6 equipment, and Motorola was the only company that had
7 the technology that they wanted.

8 But we ended up going through competitive
9 proposals, and I remember at Exlerban being involved
10 in that in evaluating and making recommendations on
11 all that stuff and purchasing. I don't know why they
12 did it. I don't remember exactly why.

13 MR. COLE: You don't know whether it was
14 legally required or whether it was just to get the
15 best services possible from the state?

16 THE WITNESS: I don't know.

17 MR. O'CALLAGHAN: Off the record.

18 (Discussion off the record.)

19 BY MR. O'CALLAGHAN:

20 Q I would like to show you a document Bates
21 stamped DKS 017800. It's an one-page document with
22 handwritten notations on it. This is 3-4 top left

1 corner, Paul Young, M. Drake, John Selig, Mahlon,
2 Joe, Mike G. Take a moment to review that and let me
3 know when you are finished.

4 (Witness reviewed the document.)

5 A Okay, I have read this.

6 Q Have you ever seen that document before?

7 A I don't recall it.

8 Q Do you recognize the handwriting?

9 A No, I don't.

10 Q Do you -- are you familiar with the
11 contents of the notes?

12 A Yes.

13 Q And what is written down there? What does
14 it represent?

15 A This is the structure of the -- the bare
16 nuts structure of the financing that was eventually
17 done.

18 Q The names that are listed on top, do you
19 recognize all the names that appear there?

20 A Paul Young was obviously with Raney, that's
21 me, John Selig, Mahlon Martin would have been head of
22 Department of Finance Administration, Joe, don't know

1 who that could have been, Mike G., don't know who
2 that could have been.

3 Q Is that maybe Michael Gaines? Did you do
4 any work on him?

5 A It could have been Mike Gaines, right. It
6 could have been Michael Gaines.

7 Q And who is Michael Gaines?

8 A He was the staff guy responsible for the
9 state police department.

10 Q For whom?

11 A For the governor.

12 Q And what kind of involvement did you have
13 with him?

14 MR. FEINSTEIN: With respect to this
15 proposal?

16 MR. O'CALLAGHAN: Correct.

17 THE WITNESS: I need a minute to think
18 about that. I hadn't thought of Mike Gaines in
19 years.

20 BY MR. O'CALLAGHAN:

21 Q Take your time.

22 A My involvement would have been as a

1 liaison, possibly in the legislative process, as
2 well. But clearly a liaison to the state police.

3 Q Do you know specifically what his
4 responsibilities were?

5 A No. Generally he was responsible for
6 legislative issues by the state police, and since
7 most -- all the departments had a liaison, Mike was
8 the liaison. He was the governor's office liaison to
9 the state police department, and I think also the
10 corrections department, at that time, if I am not
11 mistaken, which is why we put corrections in that
12 legislation.

13 Q In the draft I showed you earlier?

14 A Yes.

15 Q So you had worked on that draft, do you
16 think, the one I showed you earlier?

17 A No, I am saying I think that's why that
18 appears in there, because Mike's ultimate
19 responsibility was for the corrections, something in
20 corrections. I don't remember exactly what it was.
21 I don't know whose handwriting that is.

22 Q Do you recall at what point a determination

1 was made to open the process to bidding for other
2 firms?

3 A I don't remember what point it was.

4 Q Were there any specific discussions that
5 addressed that that you were part of?

6 A I don't recall any.

7 Q Did you hear of any discussions involving
8 taking steps to open up the bond underwriting to
9 bidding?

10 A I don't recall any.

11 Q Who would have made that decision to open
12 up the process to bidding?

13 A To bidding. It could have come from the
14 state police administration. It could have come from
15 the State Police Commission. It could have been an
16 administrative decision. I don't know. There are a
17 variety of ways it could have come out like that. I
18 don't know. The final legislation may have contained
19 that provision in that. I don't know.

20 Q Did you attend any State Police Commission
21 executive meetings or meetings?

22 A Yes.

1 Q How many of those would you say you
2 attended?

3 A At least two.

4 Q Which two do you remember attending?

5 A I remember attending the one where we made
6 an oral presentation, and I remember the one when we
7 wrapped up the deal, closed the deal.

8 Q How many firms gave oral presentations?

9 A I know of three groups including our
10 group. I remember Stephens being there. Dabbs
11 Sullivan was there. I don't recall anyone else
12 except those three firms, but there may have been
13 others.

14 Q Do you recall whether First Capital was
15 there also, First Capital Resources?

16 A I don't recall.

17 Q Clayton Brown?

18 A As a group?

19 Q Correct.

20 A No, I don't recall that, but it is not
21 surprising if they appeared together.

22 Q Just to show you a multipage document,

1 Bates stamped DKS 0271889 through 027191, the
2 minutes of Arkansas State Police Commission meeting,
3 May 10, 1985, take a minute to look at that. See if
4 it refreshes your recollection as to how many firms
5 put bids in.

6 A Okay, I have read this, this first and
7 this.

8 Q Was it consistent with your recollection
9 that there were four firms that made oral
10 presentations?

11 A Yes.

12 Q Directing your attention to the second
13 page, "order of presentation," underneath that,
14 "presentation proposals"?

15 A Right.

16 Q Under that first paragraph, Dabbs Sullivan,
17 Stephens, First Capital Resources, T.J. Raney,
18 Lasater & Company. Do you know how that order was
19 determined --

20 A No.

21 Q -- for proposals?

22 A No.

1 Q Did T.J. Raney and Lasater request to get a
2 proposal in that order or any time during the
3 meeting?

4 A I don't remember. But if I had been there,
5 I would have asked to go last.

6 Q Why is that?

7 A The last impression. I want them to forget
8 everybody else.

9 Q Thanks.

10 A That's sales.

11 Q Did anyone in the governor's office have
12 any contact with anyone at the State Police
13 Commission regarding the selection of the
14 underwriters for the radio underwriting project?

15 A Not to my knowledge.

16 Q Do you have a general understanding of how
17 underwriters for the police bond underwriting were
18 chosen?

19 A Yes.

20 Q How did that come about? What criteria
21 were analyzed?

22 A All the firms were asked to submit

160

1 proposals. All the finalists were asked to submit
2 financing proposals which went beyond just saying,
3 well, we are going to do this deal, we are going to
4 sell this many bonds at this kind of interest rate.
5 We were asked to give them net interest cost
6 assumptions, maturity schedules, net present value
7 analyses. Johnny Mitchum, who was on the commission,
8 was an actuary or is an actuary and conducted his own
9 independent analysis.

10 Q He was an actuary?

11 A It is my understanding he was an actuary,
12 or he hired an actuary. Maybe he is a CPA and he
13 hired an actuary. I remember him saying he had an
14 actuarial analysis.

15 Q Do you know if a man named John Meyers
16 might have been hired as an actuary?

17 A No. I know Johnny is a CPA. I know the
18 word "actuary" was mentioned. I don't know if it was
19 Johnny or somebody else.

20 Q With regard to the finalists who were asked
21 to give the proposals --

22 A To what?

1 Q The finalists that were asked to give the
2 proposals that you just described, was that the four
3 firms we just referred to --

4 A Yes.

5 Q -- as finalists?

6 A Yes.

7 Q I have a document here, multipaged, with
8 Bates stamped DKS N 017144 through 014167. Take a
9 look at that and let me know if that's the proposal
10 offered as part of the final four presentation.

11 A I remembered this one; I do not know what
12 the other ones looked like.

13 Q You mean for the other firms?

14 A I didn't see them. The other proposals, as
15 I recall, were -- they were all submitted
16 confidentially, and we were not permitted to be in
17 the room when the firms made their oral
18 presentations.

19 Q Did you receive copies of other proposals?

20 A I don't remember doing that at all. We
21 may -- I may have, but I don't remember it. I don't
22 remember it. This has not varied at all from -- it

1 look likes the same thing we submitted earlier in the
2 year.

3 Q To your recollection, did you have -- more
4 specific -- did you have the benefit of seeing other
5 proposals before submitting yours?

6 A Not to my recollection, but we may have.
7 It may have been public record.

8 Q This document is dated April 22, 1985.

9 Do you recall if that's the day that you
10 delivered it or the group delivered a proposal?

11 A I don't recall what day it was.

12 Q Is it usual practice to deliver documents
13 the day they are dated?

14 A Yes, it is very typical.

15 Q Do you recall what -- how this document was
16 delivered to the State Police Commission?

17 A No, I don't.

18 Q Do you know what time of day it was
19 delivered?

20 A No, I don't.

21 Q Do you know if it was in the morning or the
22 afternoon or the evening?

1 A No, I don't remember. It could have been
2 any of the above. I don't remember. It was 11 years
3 ago.

4 Q I appreciate your trying.

5 A I just don't remember.

6 Q I take it the Lasater/Hutton/Raney group
7 ended up -- they were awarded the contract for the
8 police radio underwriting?

9 A That's correct.

10 Q Why were they granted the underwriting
11 versus the other groups? Do you know, were there
12 reasons given why their proposal was accepted over
13 the others?

14 A My recollection is that we made a superior
15 proposal.

16 Q Superior in what way?

17 A First of all, we had the strength of E.F.
18 Hutton as a national distributor of securities.
19 Secondly, the structure of the transaction, being
20 certificates of participation rather than outright
21 debt instruments, it was unique in the history of the
22 state.

1 Q Did any other groups offer that type of
2 mechanism?

3 A I don't know. I don't remember.

4 Third, we had been instrumental in creating
5 the idea, developing the legislation, finding the
6 cash, and we were very intimate with the -- with the
7 deal. I mean, it was a logical award.

8 Q Okay, just following something you
9 testified earlier about, problems that ADFA had with
10 Hutton. Did that come up as an issue with this
11 commission?

12 A Not the ADFA problems with Hutton but
13 Hutton was having problems in other areas at that
14 time.

15 Q Was the Hutton issue with AHDA ever brought
16 up that you are aware of?

17 A You know, it could have been. What I
18 remember more distinctly is the check kiting thing
19 that was going on at the time with Hutton. That was
20 in the news and that was all over the Wall Street
21 Journal at that time, and it was very serious.

22 Q At the time when Lasater and Raney first

1 joined up with Hutton, had that -- had the check
2 kiting issue been around?

3 A Not to my knowledge, it hadn't been -- it
4 hadn't been -- the indictments hadn't been, you know,
5 released or distributed, or whatever do you with
6 indictments.

7 That all seemed to hit right at the end, as
8 I remember it.

9 Q Right before the proposals?

10 A Yes, well, during the deliberations, that
11 issue was raised by two or three of the
12 commissioners.

13 Q Just to clear up on the ADFA problems that
14 Hutton had, did the police commission or anyone in
15 your group confer with ADFA about problems they had
16 had with Hutton?

17 A I can't -- I don't know if the police
18 commission did or not. I didn't talk to ADFA about
19 it because I was aware of it. I knew that this old
20 guard of Hutton employees had let the ADFA down, and
21 that it was -- the commission and the staff, the
22 commissioners and the staff -- actually had let AHDA

1 down.

2 ADFA, by the time this rolled around, if I
3 am not mistaken, had a whole new set of
4 commissioners, and the staff had changed, you know,
5 just -- but I was very -- it was very clear in my
6 mind about the problem that they had.

7 Q Did you consider that when entering into
8 this group?

9 A You bet I did, yes.

10 Q And were you able to reconcile yourself?

11 A Here's what -- Raney brought the idea of
12 Hutton to us.

13 What we wanted to make sure we had was a
14 strong national distributor of securities; this was a
15 major financing. As I think I've mentioned earlier,
16 Paul Young, and Bob Snyder, had developed a very
17 close working relationship with the Houston office of
18 Hutton public finance, which covered our region.

19 And, there was a guy named Dave
20 L-a-v-e-l-l-e, Lavelle, who worked for Steve
21 Claiborne, the fellow whose name appears in that
22 proposal, and they wanted to -- they wanted to bring

1 Hutton in, because of the -- it would help them
2 encourage Hutton to put them in more deals outside
3 the state. And it was just a quid pro quo and they
4 said okay, if it passes the smell, s-m-e-l-l, test,
5 we will do it.

6 Q The concerns that were raised by Hutton by
7 the commissioners, were those allayed in any way?

8 A I remember the presentation that Steve
9 Claiborne made to the commission, and he began his
10 presentation by talking about that issue. And he
11 talked about it being a nonpublic finance, or a
12 security distribution related issue. It was a back
13 office issue; it was an administrative issue.

14 And they hoped that it didn't diminish the
15 commissions's enthusiasm to have a national
16 underwriter, and it didn't.

17 Q In the proposal that was made and finally
18 accepted, with regard to the police radio
19 underwriting, was the group successful in maintaining
20 the rate, the bid they had made, for financing a
21 project, or did the price stay the same, or --

22 A I don't know. I don't remember if it did

1 or not. I would have to look at the information.

2 I do know that we were in a time of rising
3 interest rates. I do know that any time a negotiated
4 transaction is put on the table, it is only that
5 transaction that, if it has a long lead time, is only
6 as good as the market remains in the same relative
7 position, that the proposal was made in.

8 So if all things are equal, the market
9 doesn't change, then we would have achieved what we
10 proposed.

11 I do know -- I do remember during the
12 offering that we forced an underwriting, that means
13 we made the members take down these bonds, and we
14 lost money on that, on the takedown. So, I don't
15 know if we -- if we were able to achieve the same
16 rate that we had told the commissioners that we
17 thought the deal could go, if it went dead, or if it
18 was substantially higher or substantially lower, I
19 just don't remember.

20 Q Did you ever hear that there were any talk
21 that people on the street were of the opinion that
22 Lasater & Company and Raney and Hutton were giving a

1 low ball figure on the bid with the expectation they
2 could raise it later?

3 A I don't remember that ever being -- that
4 accusation ever being made, no.

5 Q You never heard about it?

6 A I don't remember it ever being made.

7 I want to just add something.

8 This was not a competitive bid process.

9 We -- a negotiated transaction, and a competitive bid
10 transaction are two separate types of vehicles.

11 If it was a competitive bid transaction, we
12 would have had an envelope that we would have
13 delivered to the chief financial officer, that it was
14 said we buy these bonds at this rate today, we own
15 them.

16 They weren't prepared to issue securities
17 the day that they chose their underwriters. They
18 were prepared to engage a firm or a series of firms
19 who had an understanding of the transaction, who
20 thought that they could put it together at the best
21 interest rate possible, who could distribute the
22 securities over a wide market, who would maintain a

1 market, a secondary market in those securities.

2 The bonds, as I recall, the bonds weren't
3 issued for a period of time on down the road, so the
4 question of whether or not it was a low ball or a
5 high ball is really not relevant to the decision to
6 hire these firms in my judgment. Although a lot of
7 folks made a big deal out of it, you know, that was
8 not, to me, a major consideration; it still isn't.

9 Q When you say a lot of folks made a big deal
10 about it, what are you referring to?

11 A A lot of the people who complained about us
12 getting the business also advanced the theory that
13 they had a better overall net interest cost.

14 I remember Stephens's representatives
15 showing up at a legislative meeting that occurred
16 somewhere after the bonds were approved, or maybe it
17 was before the bonds were sold, trying to get the
18 decision of the State Police Commission overturned
19 because they thought their rate was better than
20 ours. And rate was really irrelevant. If it had
21 been a sealed bid, it would have been relevant but it
22 wasn't.

1 I am going to need to take a break.

2 MR. FEINSTEIN: I was going to suggest
3 maybe we take five minutes.

4 MR. O'CALLAGHAN: Sure.

5 (Recess.)

6 MR. O'CALLAGHAN: Let's go back on the
7 record.

8 BY MR. O'CALLAGHAN:

9 Q Let me show you a multipage document -- I
10 will direct you to a specific portion so you don't
11 have to look at the whole thing -- minutes of the
12 meeting of the Arkansas legislative council, dated
13 Friday May 17, 1985, and we were just talking about
14 the differences between the Lasater/Hutton/Raney
15 proposal and the other firms that made proposals.

16 I want to direct your attention to the
17 fourth page of this document, which the Bates stamps
18 run from DKS N 027211 through 027222, and I would like
19 to have you look at the first full paragraph on that
20 page. It is a page noted as page 4, and if you could
21 take a look at that and read it, I believe it's a
22 statement made by one of the competitors' proposal.

1 It is the fourth page.

2 A Starts at the bottom.

3 Q Sorry, beginning on the third page,
4 starting at the bottom.

5 A Do you want me to read the whole page?

6 Q No, just the first paragraph.

7 A Okay.

8 Q I wanted to ask you about comments made by
9 Neal Hertenstein of Clayton Brown. It appears there
10 was a -- they had a problem with the way that the
11 financing -- timing of the payments were set up with
12 the Hutton/Raney/Lasater proposal. Could you
13 describe to me what the differences were between your
14 proposal and the other proposals with regard to that
15 aspect?

16 A I can't. I don't remember. But -- I just
17 can't. If I could read them again I could tell you.

18 Q Specifically, he mentions here that in a
19 statement before the legislative council that with
20 regard to first payments being made, payments being
21 made on a monthly basis versus proposals made by
22 Hutton/Raney/Lasater to make them on an annual and

1 semiannual basis. Does that refresh your
2 recollection as to how you set it up?

3 A No. I would like to -- Hertenstein was
4 just angry he didn't get the business. Everybody
5 wanted the business. We collected the -- when we
6 were -- when the stay disbursed which was monthly, so
7 I mean, that was just -- he was mistaken.

8 Q So you are saying your proposal didn't
9 allow -- didn't state it would be annual and
10 semiannual payments?

11 A On the securities, it probably did.

12 Q Okay. Do you have any recollection as to
13 whether that was a deferment of the first payment
14 until 13 months after the initial offering --

15 A I don't remember.

16 Q -- as a benefit to the state?

17 A I don't remember. H-e-r-t-e-n-s-t-e-i-n.

18 Q I believe he was with Clayton Brown which
19 is First Capital; is that correct?

20 A Yes, sir.

21 MR. FEUER: Michael, may I ask one
22 question? Mr. Hertenstein was a competitor of yours

1 for the State Police Commission underwriting
2 contract; is that correct?

3 THE WITNESS: Yes.

4 BY MR. O'CALLAGHAN:

5 Q Did the State Police Commission ever invest
6 any funds with Lasater & Company, do you know?

7 A In what way? I don't know what you mean.

8 Q Securities or bonds, did they invest
9 capital through Lasater & Company as an agent or
10 broker/dealers?

11 A I don't understand the question.

12 MR. FEINSTEIN: You mean as if they opened
13 an account to invest like any other investor?

14 THE WITNESS: Not to my knowledge. Except
15 this deal? Except the state police radio deal?

16 BY MR. O'CALLAGHAN:

17 Q Not including that, just generally
18 investing money in an account at Lasater & Company.

19 A I don't think so. I don't recall it.

20 Q Do you know -- did the -- let me restate
21 it.

22 Did the State Police Commission invest any

1 of the money from the license renewal fees that they
2 received in any security accounts that you are aware
3 of?

4 A In any securities accounts?

5 Q Correct.

6 A Yes.

7 MR. COLE: Before the witness goes further
8 with his answer, or before there are further
9 follow-up questions, I don't understand the relation
10 of this line of questioning to the subject matter set
11 out in Senate Resolution 120.

12 MR. O'CALLAGHAN: Generally, because I
13 don't know whether the state commission invested in
14 any securities, any securities from the funds that
15 were derived from the license renewal, to find out
16 whether any of the funds were either directly or
17 indirectly put with Lasater & Company to show whether
18 there was any relationship between the way the deal
19 was financed and whether there was any consideration
20 given to the groups that were doing the
21 underwritings.

22 MR. COLE: So you would be looking at --

1 you are asking for testimony or information about
2 other business dealings between the State Police
3 Commission and Lasater & Company, because you believe
4 they may be related in some way to the state police
5 bond offering transaction?

6 MR. O'CALLAGHAN: That's what the question
7 is meant to --

8 MR. COLE: As long as the witness
9 understands. I think if that were the case, that
10 would be reasonable.

11 I don't think that this resolution gives us
12 authority to do any kind of broad inquiry into
13 Lasater & Company's business or even the business of
14 state agencies with Lasater & Company. This
15 resolution is quite limited as to the principal scope
16 of inquiry.

17 MR. O'CALLAGHAN: To the extent they were
18 in business together and whether that related or
19 resulted in any additional businesses, is what the
20 question meant.

21 THE WITNESS: As far as I know, the only
22 additional business was the investment of the bond

1 proceeds in securities between the time the bonds
2 were actually delivered and funded, and the time that
3 they were making outlays for equipment. As far as I
4 know, that was it.

5 BY MR. O'CALLAGHAN:

6 Q What was the period of time --

7 A I don't remember that. Longer than 30
8 days.

9 MR. COLE: That was an arrangement that was
10 contemplated with the original financing structure of
11 the transaction?

12 THE WITNESS: Yes, yes. Those were
13 income-generating securities that you take out of
14 cash and put in, and they have to meet certain state
15 requirements of rating and liquidity and government
16 backing, no risk.

17 MR. COLE: Essentially a cash management
18 function.

19 THE WITNESS: Exactly, yes. Yes.

20 MR. COLE: Thank you.

21 BY MR. O'CALLAGHAN:

22 Q With regard to all the services that

1 Lasater & Company provided in connection with the
2 police radio underwriting, how much income or capital
3 did that create for the company?

4 A I don't know.

5 MR. COLE: If I understand that question,
6 that's a fairly technical question in terms of income
7 and capital.

8 MR. FEINSTEIN: Let me note an objection,
9 just for the record, that it is ambiguous. He
10 already said he doesn't know so I guess we can move
11 on.

12 THE WITNESS: It would be a back office
13 function. I wouldn't know that. When all the bonds
14 were sold and we got reimbursed for expenses, I mean,
15 it is an accounting function. I wouldn't know that.
16 I don't have any idea.

17 BY MR. O'CALLAGHAN:

18 Q Do you have any idea whether it was
19 generally profitable for the firm?

20 A I can tell you Mr. Lasater was on my rear
21 end constantly to sell bonds because the interest
22 rates were going up. We had purchased them at a

1 level and we had to underwrite -- we owned the bonds
2 at that level and we had a huge inventory, and every
3 day that interest rates went up we lost money.

4 So from that perspective, it was not a very
5 profitable deal.

6 MR. COLE: Is the point of that, if the
7 bonds have a stated interest rate and if market
8 interest rates rise above the price -- I'm sorry,
9 rise above the level of the stated interest rate of
10 the bonds, then the price of the bonds will drop so
11 the amount you are able to sell the bonds for is
12 less?

13 THE WITNESS: Exactly.

14 MR. COLE: So your cost is fixed but the
15 return that you obtain from selling the bonds
16 diminishes?

17 THE WITNESS: Your risk, right.

18 BY MR. O'CALLAGHAN:

19 Q Okay, and is that a consistent environment
20 with the rates rising or did they level off at any
21 point, do you know?

22 A No. They kept going. Hutton called a

1 meeting of the co-managers on the telephone, and
2 informed us that we had about \$9 million worth of
3 bonds left that were not sold and we couldn't reprice
4 them.

5 So we underwrote the bonds, we took them
6 down, we all got 3 million. The market kept going
7 away from us and we started selling them at any price
8 to get rid of them. The state got their money. But
9 we started losing our -- as I mentioned to you
10 earlier, our takedown and our concession because the
11 market kept moving away from us, and that -- I think
12 it would be fair to say that, that's easily
13 documented by looking at bond rates, you know, the
14 week that we took the bonds down.

15 Q And what type of management fees did the
16 company receive?

17 A I don't remember.

18 Q Do you remember if they got a certain
19 percentage? Did they get a certain percentage? Was
20 it an equal percentage with all three or was it
21 graded?

22 A I don't remember. It would -- I don't

1 remember. It would be in the official statement.

2 Q Was the bill that authorized this
3 underwriting that House Bill, was it 944? Do you
4 recall the number?

5 A I don't recall the number.

6 Q Okay. Do you remember the number of the
7 act?

8 A No, I don't remember any of that stuff.

9 Q Let me show you a document Bates stamped
10 DKSX 018193 through 018199.

11 It is entitled "a bill for an act to be
12 entitled 'an act authorizing the leasing of
13 communications equipment for the department of the
14 Arkansas State Police providing for the payment and
15 security of the costs of the equipment, and for other
16 purposes.'"

17 Take a moment to review that. I am going
18 to ask you some very general questions about that.

19 A That's the act. I am familiar with this.

20 Q Act 817?

21 A Right.

22 Q When the act was first introduced as a bill

1 to the state legislature, did it meet any opposition
2 when it was first introduced to the legislature?

3 A I don't remember that it did.

4 MR. O'CALLAGHAN: Let's go off the record
5 for a second.

6 (Discussion off the record.)

7 MR. O'CALLAGHAN: Back on the record.

8 BY MR. O'CALLAGHAN:

9 Q I want to show you again the minutes of the
10 May 17, 1985 council meeting. And on the Bates page
11 DKSX 027216, "the following roll call vote was then
12 taken on the main motion by Senator Hoofman, to give
13 favorable advice to the state police commission
14 recommendation on the financing proposal submitted
15 for the acquisition of the new communications network
16 and the motion failed of adoption (14 for and 12
17 against), with 16 votes being necessary for
18 passage."

19 Is that just saying -- what I was reading,
20 does that refresh your recollection that it
21 originally failed when introduced?

22 A Well, may I -- this is a -- let me make

1 sure I have this right. These are the two different
 2 steps: the act was approved, and then this is
 3 approving the state police commission's action, so
 4 this is not reflective of whether the act was
 5 controversial or not.

6 Do you know what I am driving at?

7 Q So the proposed financing that was
 8 authorized by this bill was what was voted down by
 9 legislature; is that correct?

10 A No. This bill was a noncontroversial
 11 bill. It had no opposition. I think it was -- I
 12 don't recall exactly, but it seems to me that it was
 13 almost an act of treason to vote against the state
 14 police. I mean, that's what this act did, it is
 15 going to help protect state troopers.

16 What the legislative council did in May was
 17 review and provide advice and consent to the State
 18 Police Commission of their decision to engage our
 19 group, not whether or not they liked the act. The
 20 act had already been enacted into law, so that is a
 21 reflection of the report of the State Police
 22 Commission to the legislative council.

1 Q What was your understanding as to why the
 2 legislative counsel voted down the proposal to employ
 3 your group?

4 A I don't remember. I have to read it.

5 MR. FEINSTEIN: I might point out, to
 6 clarify a little bit, there is a reference on this
 7 page 27213 which is from the minutes to the
 8 legislation having been passed in 1985 session
 9 concerning the financing method. So that's
 10 consistent with what he just said. That may have
 11 been uncontroversial and there may have been some
 12 controversy regarding how the commission was going to
 13 implement it.

14 THE WITNESS: That's how I recall it. The
 15 legislation was not a controversial issue.

16 BY MR. O'CALLAGHAN:

17 Q On May 17th, after the legislature did not
 18 endorse the award to the Hutton/Raney/Lasater group
 19 for the underwriting, were you asked to take any
 20 steps to put together materials to convince the
 21 legislature to award the contract to you?

22 A I don't have any recollection of doing

1 that.

2 Q Did anyone from the governor's office take
3 any steps to help push through the awarding of the
4 contract to your group?

5 A Not to my knowledge.

6 Q Did Governor Clinton meet with any state
7 legislators on this matter?

8 A I don't know.

9 Q Have you ever heard that he did?

10 A No.

11 Q While you were working at Collins Locke &
12 Lasater, and Lasater & Company, were employees there
13 encouraged to give contributions to political
14 candidates?

15 A Yes.

16 Q What was the nature of the encouragement
17 that they received?

18 A It was not uncommon for candidates for
19 public office to appear at the shop, and for them to
20 be accompanied by one of the owners of the firm to
21 the trading floor, a room much like this, where they
22 would stand behind the trading desk. And there would

1 be a 10-minute speech, this is so-and-so, running for
2 such-and-such, we like him or her.

3 We will appreciate any support you could
4 give them. And sometimes there would be a memo about
5 a fundraiser or a dinner or -- it took many forms,
6 many forms.

7 Q Were you ever personally contacted, either
8 in person or by phone, by any of your superiors and
9 encouraged to contribute to particular candidates?

10 A Yes.

11 MR. COLE: Mr. Drake, before you answer
12 again, I have the same question I had before about
13 the relevance that's set forth in Resolution 120;
14 that is, the ADFA contracts between Lasater &
15 Company.

16 MR. FEINSTEIN: I join in that inquiry.

17 MR. O'CALLAGHAN: Sure, if you want, I can
18 specifically ask about contributions requested to be
19 made to Governor Clinton's campaign, gubernatorial
20 inaugurals.

21 MR. COLE: Well, do you have some linkage
22 that you can articulate between political

1 contributions generally, whether to Governor Clinton
 2 or other politicians in Arkansas, and the subject
 3 matter that's set forth in this resolution, the
 4 underwriting contracts between ADFA?

5 MR. O'CALLAGHAN: Whether they had any
 6 relationship with respect to the ADFA bonds on the
 7 contract.

8 MR. COLE: I am happy to have you ask that
 9 question. Political contributions for Arkansas
 10 politicians was not included in the resolution after
 11 considerable negotiation among the Senators.

12 MR. O'CALLAGHAN: I was trying to lay a
 13 foundation and I was going to specifically ask -- I
 14 wasn't going to go into regional candidates or
 15 anything of that nature.

16 MR. COLE: I wouldn't object to questions
 17 that are specifically tied to the ADFA contracts and
 18 the way you articulate it, but I would object to a
 19 more general inquiry.

20 MR. O'CALLAGHAN: I will tell you, I am not
 21 going to necessarily limit it to his specific
 22 knowledge of whether contributions were linked to

1 ADFA contracts, but rather, I think it is more
 2 helpful and instructive to get a foundation as to
 3 what the practices were, and whether political
 4 contributions in general were being sought at and
 5 encouraged, and then from there on, to make inquiries
 6 as to whether or not they had any impact on the
 7 granting of the ADFA contracts.

8 MR. FEINSTEIN: I think you are over the
 9 first hurdle. He has already described generally
 10 what the atmosphere was.

11 MR. O'CALLAGHAN: I don't think we will
 12 have any problems.

13 BY MR. O'CALLAGHAN: ~

14 Q You were discussing or describing the means
 15 through which employees were asked or encouraged to
 16 give contributions, and you discussed the people
 17 coming to the firm and giving speeches, also memos
 18 addressing fundraisers and dinners. Then I asked you
 19 about personal requests or recommendations that may
 20 have been made. I wonder if you could answer that
 21 question?

22 MR. FEINSTEIN: Personal requests to him?

1 MR. O'CALLAGHAN: Correct, or from any of
2 the principals in the company.

3 THE WITNESS: Yes, I was -- I was, at
4 Lasater I was, at Stephens, and I was, at Morgan
5 Keegan, always asked by my owners to consider
6 contributing to various political candidates.

7 BY MR. O'CALLAGHAN:

8 Q While employed at Lasater, were you asked
9 to contribute to any of Governor Clinton's campaigns
10 or inaugurals?

11 A Yes, yes, I was.

12 Q What were the forms of those requests?

13 A Some were verbal, some were over the
14 telephone, face to face, some were over the
15 telephone, some were here are four tickets to the
16 inaugural at \$200, or whatever they were, have a good
17 time.

18 MR. COLE: Mr. O'Callaghan, I would suggest
19 that a more appropriate way to pursue this within the
20 bounds of the resolution would be to ask the witness
21 if he ever had any discussions with anyone at Lasater
22 about political contributions, and the ADFA contracts

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1 or even political contributions and obtaining bond
2 underwriting business from the state. Then at least
3 you've linked the query to what the resolution
4 permits us to investigate. But generally inquiring
5 about political contributions, I think is just too
6 broad a query for this resolution.

7 MR. O'CALLAGHAN: I am going to disagree
8 with you on that. I don't want to limit myself to
9 his specific knowledge as to whether contributions
10 that he was asked or other people were asked to give,
11 where it is specifically tied to ADFA contracts,
12 that's something we will have to determine after
13 looking at all the facts. I think limiting the
14 inquiry that unnecessary way, you are hamstringing
15 our ability to investigate the facts and understand
16 how the contracts and the relationships worked.

17 MR. COLE: Well, I think it is really
18 incumbent upon you under the resolution to make some
19 effort either through timing as to the timing of the
20 contributions -- for example, I think even you would
21 agree that contributions taking place before the ADFA
22 business came into the firm clearly is off limits.

1 MR. O'CALLAGHAN: Certainly.

2 MR. COLE: There are limits.

3 MR. O'CALLAGHAN: I would be happy to do
4 that. That's no problem.

5 MR. COLE: Just in doing your job as a
6 lawyer here, you have to make some effort to tie
7 yourself to the subject matter of Resolution 120 on
8 this record.

9 MR. O'CALLAGHAN: Thank you.

10 BY MR. O'CALLAGHAN:

11 Q I am happy to limit it to between the years
12 1982 and 1986. I think that's generally when you
13 were working at Collins Locke & Lasater and Lasater &
14 Company and I believe that's what we were
15 discussing.

16 Now, with regard to the verbal requests,
17 you said some were face to face. Who made these
18 requests to you?

19 MR. FEINSTEIN: Before you answer that, we
20 have had -- I think we need to, at least for me, for
21 my benefit if not for the witness's, we need to
22 reestablish the context. Are you asking about

1 requests specifically related to particular
2 candidates?

3 BY MR. O'CALLAGHAN:

4 Q I limited it to Governor Clinton in the
5 last question, so if you could address that that
6 would be great.

7 A I was asked by Dan Lasater, I was asked by
8 the president of our firm, Rick Knox, I was asked by
9 David Collins, and I asked others and was glad to do
10 it.

11 Q With regard to Mr. Lasater's request, could
12 you identify to me when those took place and what the
13 specific requests were?

14 A I don't know when they took place, day and
15 year. They were typically for a contribution, either
16 to the reelection campaign, or to attend a
17 fundraiser, or to buy a ticket to an inaugural event,
18 or to help raise money in general, which I was
19 delighted to do.

20 Q To do fundraising?

21 A Yes.

22 Q Were you ever asked specifically to write

1 checks for Governor Clinton's gubernatorial campaign?

2 A Yes.

3 Q How about for his inaugurals?

4 A I don't remember that.

5 Q Over the course of your employment there,
6 how many times would you say Mr. Lasater asked to you
7 contribute to Governor Clinton's, either his campaign
8 or his inaugurals?

9 A I am going to answer that question this
10 way: I contributed as much as I could afford to
11 contribute legally to every campaign Bill Clinton
12 ever ran, with or without Dan Lasater's
13 encouragement. And will continue to.

14 Q Were you ever told you would be reimbursed
15 by the firm for contributions?

16 A Yes.

17 Q And how was that stated, presented?

18 A There were instances when we were -- when
19 this gentleman would come to the firm, and we would
20 be working, and the announcement would be made, we
21 want to raise so many dollars for this person while
22 they are here. We can take it right out of your

1 paycheck, no problem, if you are willing to do that.

2 Anybody want to do that? Go back to work. That
3 simple. Checks were cut either to us which we
4 endorsed or right to the candidate as I remember.

5 Q Okay, maybe I didn't articulate my question
6 well.

7 I was trying to elicit -- and I will be
8 happy to limit this to Governor Clinton's campaigns
9 and inaugurals. Were you ever told by the owners at
10 the firm that, after being solicited for campaign
11 contributions, that the firm would reimburse you for
12 your campaign contributions?

13 A I don't remember that happening.

14 MR. COLE: I think we need to note for the
15 record, I heard your prior answer the same way
16 Mr. O'Callaghan did. And I think he asked you
17 essentially the same question and you said initially
18 yes, and then gave an answer --

19 MR. O'CALLAGHAN: That's why I asked again.

20 MR. FEINSTEIN: I think he misunderstood or
21 misheard your term "reimburse." What he described on
22 the record doesn't meet your definition of

1 reimbursement. Can we agree on the record?

2 MR. O'CALLAGHAN: Yes.

3 MR. FEINSTEIN: In other words, you were
4 still out the money.

5 THE WITNESS: Yes. They never did that.
6 They never did that, to my knowledge. Never did it
7 for me anyway.

8 MR. O'CALLAGHAN: I would like to take a
9 two-second break because Lance, I would like to talk
10 to you for a minute. Similar issue as we had before,
11 something I wasn't aware of.

12 (Discussion off the record.)

13 BY MR. O'CALLAGHAN:

14 Q This is going back to somewhat of a
15 different subject that we discussed earlier, your
16 knowledge of the governor's relationship with Dan
17 Lasater.

18 A Okay.

19 Q And I just wanted to ask you about your
20 knowledge about whether or not the Clintons made use
21 of Mr. Lasater's aircraft or jet? This is again
22 during the time period '82 through '86.

1 A Clintons, plural?

2 Q Either the governor or his wife
3 Mrs. Hillary Clinton.

4 A I don't recall exactly when it occurred.
5 It was -- Dan made his airplane available to the
6 governor, if it was necessary that he get somewhere
7 quickly, as did Stephens Inc., as did others. Tyson
8 Foods, AP&L. We did it as a courtesy.

9 Q This was during 1982-'86 period?

10 A During my employment there.

11 Q How did you become aware that this offer
12 had been extended?

13 A I don't remember.

14 Q Did the governor ever take him up on that
15 offer?

16 A I don't know.

17 Q Did you ever fly in the plane with either
18 one of the Clintons?

19 A No.

20 Q Did the Clintons maintain any accounts at
21 Lasater & Company?

22 A I don't know.

1 Q Did Madison Guaranty Savings & Loan have
2 any accounts at Lasater & Company?

3 A I don't know.

4 Q Did you have any dealings with Sam Bratton
5 in the governor's office in connection with the
6 police radio bond underwriting?

7 A I knew Sam. I don't recall if I -- it
8 seems like I did talk to Sam about the -- the
9 legal -- just a minute -- the act that enabled the
10 system to be financed. As I recall, that was Sam's
11 area of responsibility, to review legislative
12 initiatives. And I do recall meeting with Sam to
13 talk about that. B-r-a-t-t-o-n.

14 Q Do you recall substantive discussions?

15 A No, I don't.

16 Q Did he have similar responses to Michael
17 Gaines, or did they differ?

18 A As I recall, Sam's job was to review
19 legislation that may or may not be a part of the
20 governor's package of initiatives that he submits to
21 the legislature routinely. And that was his job, to
22 evaluate those to make sure they are constitutional

1 and blah, blah, blah, blah, blah. So I don't recall
2 him having any liaison responsibilities at all.

3 MR. O'CALLAGHAN: I would like to take a
4 two-minute break. I am getting ready to wind up. I
5 might have one or two questions, and then I will --
6 Minority can do some follow-up. After that, I might
7 have some follow-up also, but why don't we go off
8 right now.

9 (Discussion off the record.)

10 MR. O'CALLAGHAN: Actually I have no
11 further questions at this time. So I want to thank
12 you for your responses.

13 THE WITNESS: You're welcome.

14 EXAMINATION

15 BY MR. FEUER:

16 Q Mr. Drake, let me introduce myself again.
17 My name is Mitchell Feuer. I am a counsel on the
18 Minority staff of the Senate Banking Committee. And
19 for purposes of this deposition I am going to be
20 asking you questions on behalf of the Minority
21 members of the Senate Special Committee on Whitewater
22 and related matters.

1 I expect that many of the areas I will
2 cover will be repetitive of what we've already
3 covered today, and I apologize in advance for that,
4 but unfortunately the way this is structured, I don't
5 think it can be avoided entirely. And I may jump
6 around a bit in order to try to cover as much ground
7 as possible in a shorter period of time, given the
8 lateness of the hour.

9 Did Collins Locke & Lasater make money on
10 the bond underwriting it did for the Arkansas Housing
11 Development Agency?

12 A Very little. Very little, if any.

13 Q And did Lasater & Company make money on the
14 bond underwriting it did first for the Arkansas
15 Housing Development Agency, and later for the
16 Arkansas Development Financing Authority?

17 A Very little, relative to other
18 transactions.

19 Q And of the profits that the firms made from
20 that bond underwriting, was some of that -- did some
21 of that derive from management fees and some of it
22 derive from sales commissions?

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1 A Yes.

2 Q What are management fees?

3 A A management fee is a portion of the gross
4 spread that is allocated to the people actually
5 responsible for putting the deal together, arranging
6 for the legal documents to be written, develop the
7 official statement, do the legwork to get the deal
8 ready to go to market. And that's typically a
9 percentage of that spread, a small percentage of that
10 spread.

11 Q And do the underwriters receive management
12 fees regardless of whether they eventually sell the
13 bonds to investors?

14 A If they are a manager or co-manager they
15 do.

16 Q What is a sales commission?

17 A That is the part of the gross spread that's
18 provided to the salesmen to encourage -- and women to
19 encourage them to sell the securities. It is how
20 they earn their money.

21 Q And with respect to the sales commission,
22 the ability of an underwriting firm to earn those

1 sales commissions depends on the firm's abilities to
2 sell the bonds being unwritten to investors?

3 A Absolutely.

4 Q And in the bond underwritings that I've
5 just asked you about, for the AHDA and the ADFA, what
6 share of, first, Collins Locke & Lasater, and then,
7 Lasater & Company's compensation came from management
8 fees and what share came from sales commissions?

9 A It varied. Let me answer it this way: The
10 majority of the income to the firm was derived from
11 sales commissions.

12 Q So the majority of the income to the firm
13 depended on the firm's ability to sell the bonds
14 being underwritten to investors?

15 A Yes. And to receive an allocation from the
16 senior manager of those bonds which had been sold.

17 Q What is a lead underwriter?

18 A A lead underwriter is also known as the
19 senior managing underwriter, and that is the firm
20 responsible for the majority of the structuring,
21 dissemination of information, managing the ledger or
22 the blotter, that is keeping track of who sold what;

1 and when the particular maturity is oversubscribed,
2 soliciting selling group members, typically
3 responsible for presentations to the rating services,
4 the credit ratings.

5 Q Does the lead underwriter receive the same
6 amount of compensation as the other underwriters in
7 an underwriting, or does the lead underwriter receive
8 a greater amount of compensation?

9 A It's usually greater.

10 Q And in the underwritings for the Arkansas
11 Housing Development Agency and the Arkansas
12 Development Finance Authority, what share of the
13 compensation went to the lead underwriter?

14 A I would say generally it was at least 50
15 percent of the management fee, if not more.

16 Q Went to the lead underwriter?

17 A Yes.

18 Q And all the other underwriters share the
19 remaining 50 percent of the management fee?

20 A It varied. If it was a two-tiered
21 co-management, which was not atypical, it would --
22 for example, you might see Hutton and then Stephens

1 and Raney and then three more co-managers, it would
2 be allocated according to their standing in the
3 deal.

4 Q So the other underwriters might not have
5 shared equally in the rest of the management fee, but
6 they shared among themselves the management after the
7 lead underwriter received --

8 A Correct, by the bracket, the bracket they
9 were in.

10 Q Did Lasater & Company -- did Collins Locke
11 & Lasater or Lasater & Company ever act as lead
12 underwriter in an underwriting of securities for the
13 Arkansas Housing Development Agency or the Arkansas
14 Development Finance Authority?

15 A Not while I was there.

16 Q Would Lasater & Company have received
17 greater compensation had Lasater & Company acted as
18 lead underwriter?

19 A You bet. Yes indeed.

20 Q Would you have liked for Lasater & Company
21 to have been lead underwriter?

22 A Yes, of course.

1 Q What other firms underwrote securities for
2 the Arkansas Housing Development Agency and the
3 Arkansas Development Finance Authority?

4 A Merrill Lynch comes to mind, First Boston.

5 MR. O'CALLAGHAN: Are you talking about
6 leads or co-underwriters?

7 MR. FEUER: Both.

8 MR. O'CALLAGHAN: If you could just
9 identify which.

10 THE WITNESS: There are lots of them.

11 MR. O'CALLAGHAN: Who would usually do lead
12 and co-?

13 THE WITNESS: Okay, when -- unless it was a
14 special situation that required just a state presence
15 to distribute a small issue, it is the practice of
16 ADFA and AHDA to engage a senior manager from Wall
17 Street, from New York. And that can be either
18 Merrill Lynch or Hutton or PaineWebber depending on
19 the circumstances and the type of securities being
20 issued.

21 Co-managers would include firms like, of
22 course, Lasater & Company, T.J. Raney, Stephens,

1 Incorporated, Dabbs Sullivan, George K. Baum, Crews &
2 Associates, Llama Company, A.G. Edwards, and other
3 regional firms.

4 BY MR. FEUER:

5 Q Mr. Drake, I am going to hand you a series
6 of pages, they are labeled DKS 026102 through 6124.
7 I have stapled them together but I will represent to
8 you that they were not all stapled together in this
9 manner as they exist in the document production
10 that's been provided to the Committee.

11 A Okay.

12 Q I am going to direct your attention to the
13 first page, 26102, can I read what's -- first let me
14 ask you, have you seen this document before?

15 A I have not.

16 Q Can you read for me the heading at the top
17 of the first page, 26102?

18 A "ADFA use of other underwriters by total
19 dollar amount at issue, five periods," I guess that
20 means five periods on a page.

21 Q Yes, I think -- and actually it carries
22 over to the second page.

1 A Okay.

2 Q I direct your attention down to the middle
3 of the page. Do you see where it's broken out 1983,
4 1984?

5 A Yes. I do.

6 Q Do you see Lasater and Collins listed there
7 under 1983, 1984?

8 A Yes, I do.

9 Q Do the numbers next to Lasater and Collins
10 comport generally with your recollection of how much
11 underwriting Collins Locke & Lasater and Lasater &
12 Company did for the ADFA and its predecessor in the
13 years 1983 and 1984?

14 A That looks about right.

15 Q Does this document suggest that --

16 MR. O'CALLAGHAN: Could you read that int
17 the record, the amount?

18 MR. FEUER: The amount next to Lasater is
19 251,135,000 and the amount next to Collins is
20 76,365,000.

21 MR. O'CALLAGHAN: Thanks.

22 BY MR. FEUER:

1 Q Do you see a firm listed as George on
2 this --

3 A Yes.

4 Q Do you have an understanding what George
5 stands for?

6 A Yes.

7 Q And what is that?

8 A That's George Baum & Associates. As I
9 recall, that's the firm, the predecessor to Dabbs
10 Sullivan.

11 Q And do you also -- do you also see T.J. on
12 that page?

13 A Yes.

14 Q Do you have an understanding what that
15 might refer to?

16 A That would refer to T.J. Raney & Sons.

17 Q And what number appears next to both George
18 and T.J.?

19 A 327,500,000.

20 Q Is that the same amount that appears next
21 to Lasater and Collins added together?

22 A Yes.

1 Q And does that suggest to you that during
2 the period 1983-1984 that the George Baum firm and
3 the T.J. Raney firm underwrote the same amount of
4 bonds for the ADFA and its predecessor as did Collins
5 Locke & Lasater and Lasater & Company?

6 A Yes.

7 Q Do you also see listed there Stephens,
8 Prudential, First Boston, Lazard Freres, Chase,
9 Norwest, and Merrill?

10 A Yes.

11 Q Is it consistent with your understanding
12 that those seven other firms also underwrote bonds
13 for the predecessor of the ADFA during that time
14 period, 1983-1984?

15 A Yes.

16 Q I don't believe I will have any more
17 questions on that document.

18 Mr. Drake, did you receive a master's
19 degree from Wayne State University in urban planning
20 and municipal finance?

21 A Yes.

22 Q What is municipal finance?

1 A It is how -- it is method by which
2 501(c)(3) corporations raise and manage money, that
3 are municipal entities.

4 Q Is it fair to say that the municipal
5 finance is a specialized area within the securities
6 industry as a whole?

7 A Yes, it is fair.

8 Q What distinguishes municipal finance or the
9 raising of capital for municipal issuers from the
10 rest of the securities industry? Do different laws
11 apply?

12 A Yes, different laws, different
13 constraints. Municipal securities are typically tax
14 exempt. They rely upon special identifiable revenue
15 streams typically. There are many other differences,
16 but I would say the regulatory end of it is probably
17 the greatest difference.

18 Q Is it typical that certain securities firms
19 or individuals who work in the securities industry
20 specialize in municipal finance?

21 A Yes.

22 Q Did David Collins recruit you to work at

1 Collins Locke & Lasater?

2 A Yes, he did.

3 Q Was that opportunity attractive to you?

4 A Yes.

5 Q Why was that?

6 A Because I wanted to get out of Memphis.
7 I'm sorry, I just wanted to get home.

8 Q Well, that's --

9 A Memphis --

10 Q I have never been there so it raises no
11 problem for me.

12 A Is there a member from Tennessee on this
13 committee?

14 Q There was.

15 MR. O'CALLAGHAN: In the event this may be
16 published, you may want to be careful how you
17 characterize your relationship with Memphis.

18 THE WITNESS: It's okay. I am not going
19 back there.

20 BY MR. FEUER:

21 Q Was the opportunity to work specifically at
22 the Collins Locke & Lasater firm attractive to you?

1 A Yes, it was.

2 Q Why was that?

3 A The pay was good; the capital that Lasater
4 told me he was committing to the firm was more than
5 sufficient, and they would make -- they were making a
6 commitment to the tax exempt side of the securities
7 business.

8 Q How many employees did the Collins Locke &
9 Lasater firm have at the time you joined?

10 A I am going to estimate more than 75 and
11 less than a hundred.

12 Q What was the net capital of the firm at the
13 time that you joined?

14 A As I recall, it was in excess of \$3
15 million.

16 Q What were the revenues of the firm at that
17 time?

18 A I don't remember.

19 Q Where were the firm's offices located?

20 A When I joined the firm, it had one office,
21 and that was at 312 Louisiana Street in Little Rock.

22 Q Did you regard the Collins Locke & Lasater

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1 firm as having an expertise in municipal finance?

2 A After I got there I did.

3 Q Had the firm underwritten municipal
4 securities prior to your joining the firm?

5 A In one regard, yes. To the extent that the
6 firm joined syndicates that would submit sealed bids
7 for securities, yes.

8 To the extent that the firm was involved in
9 any type of esoteric or creative finance, no; like
10 prolific issuers of those securities, revenue
11 securities, no.

12 Q Did the number of employees at the firm
13 increase during your tenure at the firm?

14 A Yes, it did.

15 Q How large did the firm become in terms of
16 number of employees?

17 A This is an estimate. I would say oh,
18 excluding the office in Florida, maybe 150 to 175
19 people including support staff.

20 Q While you were employed at the firm, did
21 the firm open other offices beyond the Little Rock
22 office?

1 A Yes.

2 Q And where were they?

3 A Fort Lauderdale, Florida is the only one I
4 recall right off the top of my head. There was a
5 presence in Chicago, too. Presence in Chicago. It
6 was a sales office.

7 Q Was there a sales office in Atlanta as
8 well?

9 A I don't remember one.

10 Q I am going to show you a document marked
11 DKSX 001455 through 1467. I believe this is another
12 copy of a document that Mr. O'Callaghan showed you
13 previously -- that is my belief -- with a different
14 set of numbering on it. I am going to direct your
15 attention to page 1466.

16 A Okay.

17 Q Can you read the top of that page for --
18 MR. FEINSTEIN: You want him to read it
19 into the record?

20 BY MR. FEUER:

21 Q Does that say "profile of Lasater &
22 Company"?

1 A Yes, profile of Lasater & Company Inc.,
2 second paragraph, with home offices in Little Rock,
3 Arkansas. Lasater & Company has more than 150
4 employees throughout offices in Chicago, Atlanta and
5 Fort Lauderdale.

6 Q Does that refresh your recollection as to
7 whether Lasater & Company had an office in Atlanta?

8 A Yes, it does.

9 Q Do you have any reason to believe that that
10 was not accurate at the time it was written?

11 A No. I just don't remember it being there.

12 Q Had Collins Locke & Lasater already
13 underwritten bonds for the Arkansas Housing
14 Development Agency prior to your joining the firm?

15 A I was under the impression they had.

16 Q Did the Arkansas Housing Development Agency
17 have a policy of giving underwriting business to
18 Arkansas firms?

19 A Yes.

20 Q What was your understanding of that policy?

21 A My understanding was the firms that wanted
22 to participate and met the criteria for selection

1 were selected to become co-managers.

2 Q And did the Arkansas Development Finance
3 Authority have the same policy with respect to using
4 Arkansas firms as underwriters?

5 A Yes.

6 Q In April of 1985, did the Arkansas State
7 Police Commission solicit proposals from a number of
8 financial institutions regarding financing a proposed
9 new communications system?

10 A Yes.

11 Q How many institutions responded to the
12 State Police Commission's request for proposals?

13 A I don't know. I don't remember.

14 Q Let me show you a document, DKSX 001395.
15 MR. COLE: Off the record for a moment.
16 (Discussion off the record.)

17 BY MR. FEUER:

18 Q Mr. Drake, have you had a chance to look
19 over that document?

20 A Yes, I have.

21 Q Does that document refresh your
22 recollection as to how many proposals were received

1 by the State Police Commission?

2 A Well, I am reading it here that eight were
3 received.

4 Q And those eight were received from?

5 A Lasater & Company, T.J. Raney, E.F. Hutton,
6 as a joint proposal, First Capital Resources,
7 Stephens, Incorporated, Powell & Centerfield, Dean
8 Witter Reynolds, Equity Resources, Motorola, and
9 Shearson Lehman Brothers.

10 Q What process did the Arkansas State Police
11 Commission use to winnow the proposals that were
12 received?

13 A As I recall, the State Police Commission
14 and the state police staff and a couple of gentlemen
15 from the purchasing department at the Department of
16 Finance and Administration formed an evaluation
17 committee who took into consideration the proposals
18 that were submitted. They ranked them and they made
19 a recommendation to the full board.

20 Q What was that recommendation to the full
21 board?

22 A They came up with the short list of

1 finalists.

2 Q And who was on the list of finalists?

3 A Your group which would have been Lasater,
4 Hutton, and Raney, Stephens, George K. Baum, and the
5 group you mentioned.

6 MR. O'CALLAGHAN: First Capital, Clayton
7 Brown?

8 THE WITNESS: That's it, Clayton Brown.

9 BY MR. FEUER:

10 Q Now, the proposal submitted by Lasater &
11 Company was submitted jointly with T.J. Raney & Sons
12 and E.F. Hutton?

13 A Yes.

14 Q And what was T.J. Raney & Sons?

15 A A whole investment banking firm.

16 Q And what was E.F. Hutton?

17 A An international investment banking firm.

18 Q Why did Lasater & Company submit this
19 proposal jointly with T.J. Raney and with E.F.
20 Hutton?

21 A Raney solicited Lasater's involvement, and
22 brought Hutton along as the senior manager.

1 Q Was Lasater & Company's proposal a more
2 attractive proposal because of the participation of
3 T.J. Raney, and E.F. Hutton?

4 A Yes.

5 Q Did --

6 MR. O'CALLAGHAN: That's your opinion.

7 THE WITNESS: In my opinion it was, yes --

8 MR. COLE: Your professional opinion.

9 THE WITNESS: -- or we wouldn't have done
10 it.

11 MR. COLE: He is an expert.

12 BY MR. FEUER:

13 Q Did the participation of E.F. Hutton
14 provide for a greater distribution network for the
15 sale of the bonds should your group win the contract?

16 A Yes.

17 Q And would a wider distribution network
18 enable the State Police Commission to sell those
19 bonds more cheaply?

20 A Yes.

21 Q What are certificates of participation?

22 A They are securities which represent an

1 interest in a lease.

2 Q Did your group structure your proposal as
3 certificates of participation?

4 A Yes. The acronym is important, COPs.

5 Q COPs?

6 A Thank you.

7 Q Did you believe that structuring the deal
8 as certificates of participation would make the
9 proposal more attractive to the State Police
10 Commission?

11 A Yes.

12 Q Why did you have that belief?

13 A Because we believed that, through insuring
14 the securities, we could provide a more flexible
15 structure that would deal with technological
16 obsolescence which we were all concerned with because
17 of the Motorola technology, and because it was
18 something unique that the market, we felt, would
19 respond to readily.

20 Q Was your proposal made in the form of a
21 lease/purchase of the radio equipment?

22 A Yes.

1 Q And did you believe that structuring the
2 proposal as a lease/purchase would make it more
3 attractive to the State Police Commission?

4 A It would. It did.

5 Q And why was that?

6 A Well, acquiring a new system outright, to
7 us, appeared to present more risk than a lease which
8 had maintenance agreements, it had technological
9 obsolescence agreements, it had more flexibility than
10 an outright buy, because at the time, the state
11 police didn't know where to place the towers; they
12 didn't know if the tower technology was going to work
13 or not. So we, working with Motorola, decided that
14 that was the preferable route to take.

15 Q What was the effective cost of borrowing
16 under your group's proposal?

17 A I don't remember.

18 Q I am going to show you again document
19 number DKS N 001455 through 1467, and I am going to
20 direct your attention to page 1456. And after you
21 have had a chance to read that last paragraph, I am
22 going to ask you if that refreshes your recollection

1 as to the effective cost of borrowing of your group's
2 proposal.

3 A Yes, I am familiar -- this refreshes my
4 memory.

5 Q And what was the effective cost of
6 borrowing under your group's proposal?

7 A Based upon market conditions at the time,
8 the borrowing costs were estimated to be 4.4 percent
9 per year.

10 Q How was the figure of 4.4 percent arrived
11 at?

12 A It was arrived at by adding the -- well, by
13 making an estimate of the cost of capital per
14 maturity, for the sale of the securities, adding all
15 expense, all debt service, and dividing by bond
16 years.

17 Q How did that compare to the effective cost
18 of borrowing of the other proposals submitted to the
19 Arkansas State Police Commission?

20 A I don't remember.

21 Q Did your proposal contain a debt service
22 reserve fund?

1 A I believe it did. I am not certain but I
2 believe it did.

3 Q I am going to direct your attention to the
4 last sentence on page 1456, and ask if that refreshes
5 your recollection that the proposal contained a debt
6 service reserve.

7 A Yes, yes, it did.

8 Q What is the purpose of a debt service
9 reserve fund?

10 A Its primary purpose is to provide a source
11 of moneys to pay debt service on securities. If
12 there is an interruption in the flow of funds that
13 have been predicted to be available to pay interest
14 and principal, it gives an issuer the opportunity to
15 restructure its outstanding debt or to increase its
16 revenues. It is a stopgap. It is a fail-safe. Most
17 rating agencies required it at the time.

18 Q Did the other proposals contain debt
19 service reserve funds?

20 A I don't know.

21 Q Was it your belief that inclusion of a debt
22 service reserve fund would make the proposal more

1 attractive to the Arkansas State Police Commission?

2 A It was my conclusion that it would result
3 in a lower interest rate, which would make it more
4 attractive to the State Police Commission.

5 Q What was the payment schedule for principal
6 and interest on the money borrowed under your group's
7 proposals.

8 A I am flipping the page to look. It was a
9 9-1/2-year deal, with serial maturities, pretty
10 straightforward, interest semiannually and principal
11 maturing annually.

12 Q Was there a period of time during which the
13 Arkansas State Police Commission would not be
14 required to make principal and interest payments at
15 the beginning of the borrowing period?

16 A Yes. During the construction.

17 Q And why was the payment schedule structured
18 in that way?

19 A If I am not mistaken, we capitalized
20 interest during the construction period. Let me just
21 make sure. And we may have had some arbitrage as
22 well, a-r-b-i-t-r-a-g-e. There is no capitalization

1 of interest. We were using an arbitrage then in
2 which we would take the moneys, invest them in
3 taxable securities that had a yield greater than the
4 tax exempts, as I recall it, and we proposed that the
5 first maturity date be '86. That had to be the
6 reason.

7 I am just trying to figure out -- I don't
8 know the answer to the question. I am just trying to
9 figure out, to refresh my memory on that.

10 MR. O'CALLAGHAN: Can I just clarify on
11 that? You said you invested the money in taxable
12 securities. Were those invested through Lasater &
13 Company?

14 THE WITNESS: Some of them were, yes.

15 MR. O'CALLAGHAN: Not all of them?

16 THE WITNESS: Not all of them.

17 MR. O'CALLAGHAN: Do you know what
18 percentage?

19 THE WITNESS: No, I don't.

20 MR. O'CALLAGHAN: Thanks.

21 THE WITNESS: Let me -- I want to
22 elaborate, that all the securities transactions were

1 approved in advance by the purchasing department of
2 the state of Arkansas.

3 MR. O'CALLAGHAN: Is that required by the
4 legislation?

5 THE WITNESS: I believe it is required by
6 law. I don't know if it is required on this enabling
7 legislation. I have to familiarize myself with the
8 structure again before I can answer your question. I
9 am just not that familiar with it anymore.

10 BY MR. FEUER:

11 Q Did you attend the meeting of the State
12 Police Commission at which the finalists made the
13 presentations to the commission?

14 A Yes.

15 Q And was it your impression that the other
16 firms, your competitors, had put substantial efforts
17 into developing their proposals and making their
18 presentations the commission?

19 A I wouldn't know about the presentations. I
20 wasn't permitted to attend. It is my impression that
21 no one worked as hard as our group did developing the
22 proposal from the beginning of the legislation all

1 the way through to working closely with the staff.
2 But we really wanted this deal and we busted our rear
3 ends to make sure it was the best deal they could
4 get.

5 I am not aware of what the other people
6 said in their presentations, so I don't know what
7 kind of quality they had. But obviously not as good
8 as ours or they would have gotten the business.

9 Q Was it your impression that your
10 competitors believed that they had a chance to get
11 the business if they had submitted a superior
12 proposal?

13 A No doubt in my mind.

14 MR. FEUER: Let's go off the record.

15 (Discussion off the record.)

16 (Recess.)

17 BY MR. FEUER:

18 Q We are back on the record at 7 minutes
19 after 6:00.

20 What was the Arkansas Housing Development
21 Agency?

22 A It was an agency created by legislation to

1 provide a vehicle for raising funds from the sale of
2 tax-exempt securities, the proceeds of which would be
3 loaned to banks, who would then loan the funds to
4 eligible first time home buyers, who were certified
5 as low- or moderate-income persons.

6 Q Was the Arkansas Housing Development Agency
7 created before Bill Clinton became governor of
8 Arkansas?

9 A I don't know the answer.

10 Q Do other states have -- let me rephrase
11 that.

12 During the time period prior to 1985, did
13 other states have agencies that were similar in
14 nature and that performed similar functions to the
15 Arkansas Housing Development Agency?

16 A Yes.

17 Q Was it common among the states to have such
18 an agency?

19 A It was becoming more and more common
20 through the '80s for states to provide an alternative
21 source of funding for low-income families to acquire
22 housing because interest rates for taxable loans were

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1 so high at the time that it was impossible -- it was
2 designed to encourage housing for low- and
3 moderate-income families.

4 Q And the use of such agencies was seen as a
5 way of making housing more affordable? Was the use
6 of such agencies seen as a way to make housing more
7 affordable?

8 A Yes.

9 Q What was the Arkansas Development Finance
10 Authority?

11 A The ADFA was one of the outcomes of then
12 Governor Clinton's economic development initiative
13 that was designed to, in combination with education
14 reform and some other very broad reforms, to assist
15 Arkansas recruit business to the state to improve
16 infrastructure, and to provide a central agency that
17 would be a debt issuing agency for those purposes.

18 Q Was the ADFA the successor agency to the
19 Arkansas Housing Development Agency?

20 A Yes.

21 Q In 1985, had other states created agencies
22 similar to the ADFA; that is, agencies that issued

1 tax-exempt securities for the purpose of stimulating
2 economic growth within a state?

3 A Yes. In fact it was modeled after
4 legislation from back here in the east somewhere,
5 might have been Massachusetts, or it might have
6 been -- there was a consultant that was hired from
7 this part of the country and he advised that we use
8 that form. The state of Michigan had a similar
9 program, New Jersey has a similar program, Louisiana
10 has a similar program, all of them before Arkansas.

11 Q So the Arkansas Development Finance
12 Authority -- was the Arkansas Development Finance
13 Authority created in an attempt to achieve the same
14 kind of success in Arkansas that other states had
15 experienced in their states with similar agencies?

16 A Yes.

17 Q Did some of the board members from the
18 Arkansas Housing Development Agency carry over to the
19 ADFA when the ADFA was created?

20 A Yes.

21 Q Did Lasater & Company make a presentation
22 in January 1985 to Governor Clinton and his staff at

1 the Legacy Hotel in Little Rock?

2 A Yes.

3 Q Was that presentation made jointly with
4 E.F. Hutton?

5 A As I recall, it was.

6 Q And how was it that Lasater & Company and
7 Hutton came to make that presentation together?

8 A As I remember it, Hutton was interested in
9 expanding its influence in investment banking circles
10 in the southwest. And they were aligning themselves
11 with firms throughout the southwest, including Texas,
12 Louisiana, Mississippi, Alabama, or in the midsouth,
13 and Arkansas.

14 And I don't know if they initiated it or if
15 it came from us, but we ended up saying these are the
16 things that we can do together and we would like to
17 be -- we would like the opportunity to present the
18 ideas to you. But I don't know exactly how it came
19 about. It is a long time ago.

20 Q Did E.F. Hutton have ideas that Lasater &
21 Company did not have?

22 A Yes, they did. They certainly did.

1 Q And did they have a greater distribution
2 network for securities than Lasater & Company had?

3 A Yes. I want to add that E.F. Hutton was
4 the largest municipal underwriter in the United
5 States during that period of time. In terms of
6 volume of deals, in terms of employees, in terms of
7 total deals managed, there was Hutton, and then there
8 was a gap, and then there was somebody else.

9 Q Did you feel that joining forces with
10 Hutton would make for a stronger, more comprehensive
11 proposal?

12 A Yes.

13 Q Did the Arkansas state purchasing
14 department review the proposal from the
15 Raney/Hutton/Lasater group regarding the financing
16 for the police radio system?

17 A Yes.

18 Q And what was their analysis of that
19 proposal?

20 A I don't remember what it was.

21 Q Did they make a recommendation to the State
22 Police Commission or to the legislative council?

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1 A I seem to recall that they did make a
2 recommendation to the state police. I don't know if
3 it was to the commission or to the staff. I don't
4 remember that.

5 Q And what was that recommendation?

6 A An affirmative recommendation.

7 Q Did the state purchasing department view
8 the proposal favorably?

9 A Yes.

10 Q Did you attend a reception at the
11 governor's mansion with Dan Lasater for an
12 entertainer who was visiting Little Rock at that
13 time?

14 A Yes.

15 Q How many other people were present at that
16 reception?

17 A It was a full house. 75. Less than a
18 hundred, more than 75, lots of folks.

19 MR. COLE: I just have a couple of
20 questions. Do you want to follow up?

21 MR. O'CALLAGHAN: Why don't you guys finish
22 up and then I will do mine.

1 MR. COLE: Mine don't relate to what he has
2 done.

3 MR. O'CALLAGHAN: That's fine, go ahead.

4 EXAMINATION

5 BY MR. COLE:

6 Q You have been here quite a long time and I
7 would like to do this as quickly as we can.

8 As you know, the record of these
9 proceedings will at some point become public and a
10 lot of people may be looking at this deposition. And
11 what I would like to do for people who look at this
12 record and aren't as knowledgeable about the
13 securities business and municipal finance as you and
14 Mr. O'Callaghan and Mr. Feuer, I would like to ask a
15 couple of questions to try to get to the real heart
16 of what this committee is looking at under the
17 resolution here.

18 And in that regard, is the municipal
19 securities business competitive among the firms that
20 seek that business from municipal issuers?

21 A Yes.

22 Q Would you say it is highly competitive?

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1 A I would say it is highly competitive.

2 Q Are the terms of the transactions by
3 issuers of municipal securities public through the
4 official statements of those transactions?

5 A Yes, yes.

6 Q So competitors who do not get the business
7 can look at the transaction and evaluate its terms?

8 A If it is a public offering, yes.

9 Q And the ADFA and AHDA transactions we have
10 been talking about today were all public offerings;
11 is that correct?

12 A Yes.

13 Q And so if a competitor feels that one of
14 the underwriters or a group of underwriters in a
15 syndicate has somehow taken advantage of the issuer
16 or done something improper, they certainly can
17 complain and make that known to the world; would that
18 be correct?

19 A Yes.

20 Q And in fact you testified, I think here
21 today, that there was one complaint that you felt had
22 no merit where something like I just described took

1 place?

2 A There were two.

3 MR. O'CALLAGHAN: Just for clarification,
4 was that with regard to ADFA deals?

5 MR. COLE: I believe the one that was
6 discussed was police radio.

7 BY MR. COLE:

8 Q My only point -- correct me if I am wrong,
9 Mr. Drake -- is these deals are intensely scrutinized
10 and if there is any impropriety or any
11 irregularities, competitors are likely to bring it to
12 the attention of the world; is that correct?

13 A That's correct.

14 Q With regard to the issues of securities
15 that we have been talking about today, those by
16 Arkansas state agencies, the Arkansas Development
17 Finance Agency and its predecessor, have the
18 investors received all the payments of principal and
19 interest that they were entitled to receive in those
20 transactions?

21 A Yes.

22 Q So there have been no defaults?

1 A No defaults.

2 Q And no losses to investors from those
3 transactions?

4 A Not to my knowledge.

5 Q So the bottom line here is that the
6 investors got their money, and the issuer, that is
7 the state, got fair services for what they paid the
8 underwriters, to the best of your knowledge?

9 A To the best of my knowledge.

10 MR. COLE: Thank you, I don't have anything
11 further.

12 EXAMINATION

13 BY MR. O'CALLAGHAN:

14 Q Just so I am clear, I have a couple of
15 quick follow-up questions. You testified earlier,
16 and correct me if I am mischaracterizing testimony,
17 most of the ADFA rates were set by the authority; is
18 that right, for the bidding process, the rates on the
19 offerings?

20 A No. The way the rates were set was the
21 senior manager would poll the co-managers with price
22 ideas, we call them a price sheet, and then the

1 senior manager would then take those price sheets,
2 price ideas and propose to prepare them in a fashion
3 that the staff at ADFA or the board could
4 understand. This is where the market is, this will
5 be your net cost of capital, this is what we can
6 deliver, this is the effective rate to the lenders.
7 And that's how they would say go do it or wait, and
8 that's how the rates were set.

9 Q Was that before or after contracts were
10 awarded?

11 A That would be after. After the appointment
12 of the -- of underwriters.

13 Q So, would it be fair to say that the main
14 selling point, for underwriters to get this contract,
15 were the level of service and resources they could
16 lend to an offering versus what rates they can come
17 down with?

18 A I would say that. I would say that that's
19 true.

20 Q Earlier you testified that Lasater &
21 Company made, with regard to AHDA and ADFA
22 transaction that is, made very little money relative

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1 to other transactions. What did you mean by that?
2 Relative to what transactions, and how would you
3 quantify that?

4 A Okay, there are secondary market trades
5 which are much more profitable than an original issue
6 sale of securities. There is a -- at the time, the
7 municipal securities rulemaking board, the MSRB, had
8 guidelines for markups on municipal trades. They
9 were generally limited to between 3 and 5 points. I
10 was never involved in a transaction with ADFA or AHDA
11 where the spread was more than 2-1/2 points. They
12 just weren't profitable. We did it to support the
13 agency, and to have a presence.

14 Q But there was value to the company, being
15 involved in the deals; right?

16 A Yes, there was value to the business --
17 value to the involvement.

18 Q Just to sum up, Lasater & Company's
19 involvement with the bond underwritings and HDA
20 underwritings, the reason for the involvement was to
21 make money; is that right?

22 A Yes.

1 Q And they made money doing that; is that
2 right?

3 A Yes. I want to note something, Michael.

4 Q Certainly.

5 A If we took the revenues generated from all
6 sources at Lasater & Company and at Collins Locke &
7 Lasater, the overwhelming majority of income was
8 derived from taxable securities transactions, Ginnie
9 Maes, Freddie Macs, Fannie Maes, government
10 securities, not from municipal bonds. I would say we
11 didn't have more than a handful of really crackerjack
12 salespeople who understood the municipal market.

13 It would be a real stretch to say that it
14 was a win/win for Lasater & Company.

15 Q How about with regard to having prestige or
16 respect for the firm?

17 A No question about that. There is that
18 value, sure.

19 MR. FEUER: Was there the anticipation of
20 making profits from trading the securities in the
21 secondary markets, after --

22 THE WITNESS: You bet. Yes. And building

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1 a sales staff that had more diversity than just
2 government securities. I mean, that's what took that
3 firm down. They sold Fannie Maes and Freddie Macs,
4 and didn't diversify their business, and when one
5 market was depressed, they had nothing to fall back
6 on.

7 BY MR. O'CALLAGHAN:

8 Q Earlier you said you would have liked to be
9 a lead underwriter on these?

10 A You bet.

11 Q Was that realistic?

12 A No.

13 Q Were any of the local firms able to do
14 that?

15 A Stephens tried. At that time in history,
16 they didn't have the distribution. They do now, but
17 they didn't then.

18 Q Okay.

19 A I think it is fair to say that there was no
20 one in Arkansas that could do that, not at that
21 size.

22 Q You said when you join the firm, the net

1 capital was in excess of \$3 million?

2 A Yes, I remember it was. Reasonably sure it
3 was.

4 Q Did that include the illiquid assets that
5 you referred to earlier or is that separate?

6 A It probably would have included that,
7 probably would have included that, yes.

8 Q Do you know what -- how much was involved
9 in those illiquid assets?

10 A How much were illiquid?

11 Q Yes, like how much the boat was worth?

12 A The boat was \$600,000, and the plane was a
13 twin engine jet Honza, H-o-n-z-a, and I don't know
14 how much that was. Made in Israel, great airplanes.
15 Don't know. Really substantial.

16 Q Do you know the name of the boat?

17 A Par Value. It was a killer boat. It was a
18 killer boat.

19 Q I hope the Minority doesn't mind if I ask,
20 was it a sail or motorboat?

21 A Motor launch.

22 MR. COLE: You are at the edge of the

1 scope.

2 BY MR. O'CALLAGHAN:

3 Q During 1982 through 1986 when you were
4 working for the firm, what percentage of your time
5 was spent working on ADFA, AHDA work?

6 A Let's see.

7 Q You can tell me whether it was the
8 majority.

9 A It was not a majority. It was a -- it was
10 sporadic. It was point of need stuff. When there
11 was an RFP, I worked on it. When there was a
12 meeting, I went to it. They had monthly meetings,
13 but they were an hour or two hours.

14 Q Did Ms. Thomasson have any involvement in
15 working on those issues?

16 A No. She had no investment banking skills.
17 She was an administrative assistant.

18 MR. COLE: So to the best of your
19 knowledge, she had no involvement in the services
20 that Lasater & Company provided on this ADFA
21 offering?

22 THE WITNESS: No, not at all. No. Patsy

1 was a management -- upper management-type person,
2 confidante, and didn't get involved with what she
3 didn't understand.

4 MR. COLE: Did she have any contacts with
5 the state officials who were in charge of issuing
6 these bonds? And by that, I mean official contacts
7 in her capacity as an employee at Lasater.

8 THE WITNESS: Who?

9 MR. COLE: With the various state officials
10 whom you've named that were in charge of issuing
11 these bonds for the state agencies; in other words,
12 did she help pitch the business?

13 THE WITNESS: No, no. But at the same
14 time, we were all acquainted with these people. I
15 mean, we all worked on the campaign together. I
16 mean, Patsy was --

17 MR. COLE: I understand. I am trying to
18 determine if she played a role in the development of
19 this business.

20 THE WITNESS: No. No.

21 BY MR. O'CALLAGHAN:

22 Q She wasn't involved in the nuts and bolts

1 mechanics?

2 A No.

3 Q But she had contact with some of the people
4 on the ADFA board; is that right?

5 A We did business with Margaret at Twin City
6 Bank and she knew Margaret very well.

7 Q Did she also make recommendations with the
8 governor for people to be placed on the board?

9 A I don't know about that.

10 MR. COLE: To your knowledge, on that
11 point, did she have any meetings or did she undertake
12 any duties or responsibilities in connection with
13 trying to obtain this ADFA business for Lasater &
14 Company?

15 THE WITNESS: Not to my knowledge. I would
16 be very surprised if she did.

17 MR. COLE: Is it likely, in view of your
18 position at the firm and in view of your
19 responsibilities, that if she had done that you would
20 know about it?

21 THE WITNESS: She would have consulted with
22 me, yes.

1 MR. COLE: Thank you.

2 THE WITNESS: Patsy is a team player.

3 BY MR. O'CALLAGHAN:

4 Q You mentioned earlier if Arkansas firms met
5 the financial criteria set up by the board, ADFA
6 board, they would normally be signed on as
7 co-underwriters; is that right?

8 A If they responded to an RFP, it is my
9 impression that was pretty routine.

10 Q You mentioned earlier also that there were
11 a couple of proposals that you had made to be
12 included as co-underwriters where Lasater & Company
13 wasn't included; is that right?

14 A Where we were not included?

15 Q Correct.

16 A Yes. I seem to remember that there were.
17 Yes. Specifically in multifamily housing issues that
18 Merrill Lynch managed, that was an area we didn't
19 have any expertise at all.

20 Q Did you apply for them?

21 A I am pretty sure we did.

22 Q Do you know why you didn't qualify, or were

1 why you weren't put on the deals?

2 A I do not remember.

3 Q You said you didn't have an expertise in
4 that area; is that one of the reasons?

5 A That's one of the reasons. Another reason
6 was we didn't get along with Merrill Lynch, didn't
7 like them; and we knew we would never get any bonds,
8 number three.

9 Q So it may not have been a profitable for
10 you to be involved in them anyway?

11 A It would -- I don't think it would have
12 been profitable. No.

13 Q I believe you also testified earlier that
14 with regard to the police radio underwriting, that
15 Hutton/Raney/Lasater said no one worked as hard as
16 you did, that you wanted it really badly?

17 A Yes.

18 Q Why did you want it so badly?

19 A Well, we always wanted business. I mean,
20 that's what we were -- that's what we opened the door
21 for every morning, number one. Number two, if we got
22 it, that meant that our competitors didn't get it,

1 and that was prestigious.

2 Q And that was good business?

3 A Well, we thought it was good business,
4 yes.

5 Q Okay.

6 A And if we could shut our competitors out,
7 we wanted to.

8 MR. O'CALLAGHAN: I have no further
9 questions at this time.

10 MR. FEUER: I just have one more question.

11 EXAMINATION

12 BY MR. FEUER:

13 Q On that deal, the State Police Commission
14 underwriting, did T.J. Raney, E.F. Hutton and Lasater
15 share the management fees equally between the three
16 firms?

17 A I don't remember.

18 Q But did they share -- were the management
19 fees shared among --

20 A They were shared. I don't recall how they
21 were allocated.

22 Q Were the bonds that were sold also

1 allocated among the three firms?

2 A They were allocated because we got stuck
3 with them. As I mentioned, when the market went away
4 from us and we forced the underwriting, we owned the
5 bonds at that rate and we divided them by a third, a
6 third, a third. And I had a -- I had a trading wall
7 full of securities.

8 Q So, in that situation, rather than
9 looking -- rather than Lasater & Company looking at
10 sharing one-third of the profits with the other two
11 firms, as the interest rate market went away from
12 you, you were looking at possibly sharing losses with
13 the other two firms; is that right?

14 A Well, let me put it to you this way. We
15 owned the bonds. It was our responsibility to sell
16 them, within the agreement among the underwriters,
17 which is a document that we all sign that says this
18 is how we will offer them and this is when they are
19 going to break syndicate and this is when you can
20 start selling them in the secondary market.

21 If E.F. Hutton wanted to sell their \$3
22 million bonds to the E.F. Hutton tax exempt bonds

1 trust, that would then be sold out in units of a
2 thousand dollars. They could get rid of their
3 bonds. We didn't have that, and so we watched the
4 market, the rates go up and our profit deteriorate
5 daily.

6 So it was not -- we were not happy campers,
7 it was really a sickening feeling, for a deal we
8 worked so damn hard for. I mean, it just was not
9 fun. And Dan was not happy.

10 MR. O'CALLAGHAN: Just one last clarifying
11 question. You went into the deal expecting to make
12 money?

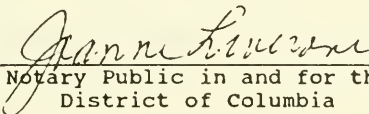
13 THE WITNESS: Yes, we did.

14 MR. O'CALLAGHAN: That's it. That's all I
15 have. Off the record.

16 (Whereupon, at 6:35 p.m., the deposition
17 was concluded.)

18
19 -----
20 MICHAEL J. DRAKE
21
22

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF
CAPRICIA PENA VIC MARSHALL
IN RE: S. RES. 120**

THURSDAY, JANUARY 25, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CAPRICIA PENA VIC MARSHALL, called for examination pursuant to notice of deposition, at 4:45 p.m. in Room 640-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JOHN M. BRAY, Esq.
Schwalb, Donnenfeld, Bray & Silbert
1025 Thomas Jefferson Street, NW
Suite 300
Washington, DC 20007
On behalf of the Deponent.

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Capricia Penavic Marshall Marshall Exhibit 1	85, 1534

P R O C E E D I N G S

MR. DINH: Ms. Marshall, as you know, my name is Viet Dinh. I'm with the Majority staff here on the Special Committee team to investigate Whitewater Development Corporation. One of my colleagues, Chris Bartolomucci, will be joining us at some point and he'll be helping me with the task today.

This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes the Special Committee administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, and other related matters.

As you may know, the Special Committee has investigated and conducted hearings into a number of subjects. I will ask you to talk about any knowledge you may have of matters relevant to this continuing investigation, but I anticipate that the two main areas that we are going to talk about have to deal roughly with the time frame of July 20th through July

4

27th, 1993 and roughly the timeframe of July 20th to August 10th, 1995.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred in the way in which White House officials handled documents in the office of house deputy counsel Vincent Foster following his death.

Section 1(b)(3)(A) of Resolution 120 authorizes "investigation and public hearings into the operation, solvency, and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an "investigation and public hearings into the policy and practices of the RTC and federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association." These roughly will be the focus of today's deposition.

1 Your testimony today will be taken under
2 oath and the stenographer will prepare a record of
3 questions and answers. This deposition is taken in
4 advance of public hearings to be held as we speak
5 right now. We have not decided who among the
6 deposition witnesses will be at such hearings, but if
7 you are among those we call at the hearings, we will
8 notify you in advance.

9 The transcripts of this deposition will be
10 treated as committee confidential until the
11 commencement of -- until the hearings, until your
12 attendance at the hearings. Then whole or part of
13 the transcript may be made public. Prior to the
14 hearings you will receive a letter from the Committee
15 telling you that you may come, you or your counsel
16 may come to the Senate to review the transcript of
17 your deposition and make note of any corrections for
18 transcription on an errata sheet.

19 MR. BRAY: We do that whether or not this
20 is to be a public witness?

21 MR. DINH: Indeed.

22 MR. BRAY: Okay.

1 BY MR. DINH:

2 Q And I just want to stress that that again
3 is for the limited purpose of review and correction
4 and not to be disclosed for any other reason. If you
5 are called to testify at public hearings, you will be
6 provided with a copy of your deposition transcript
7 four days in advance of your testimony including any
8 errata sheets that you may provide, again for the
9 limited purpose of preparing yourself for testimony
10 at public hearings.

11 You may be represented by counsel. And if
12 counsel would make an entry into the record.

13 MR. BRAY: She is represented by counsel,
14 John M. Bray.

15 MR. DINH: Pursuant to procedures set forth
16 in Resolution 120, objections as to the form of the
17 questions will be noted for the record. There are
18 two grounds upon which counsel may object and give an
19 instruction not to answer. Those are privilege and
20 scope; that is, the question goes beyond the scope of
21 the matters authorized in the Senate Resolution 120.
22 The resolution further states that the Committee

1 Chairman ultimately will rule on objections where the
2 witness refuses to answer a particular question.

3 Swear in the witness, please.

4 MR. BRAY: I don't anticipate any problems
5 in either of those areas and I take it you don't
6 either.

7 MR. DINH: No.

8 MR. BRAY: Scope. Why would you want to
9 exceed scope and privilege? You have no interest in
10 any of that, I'm sure.

11 (Laughter.)

12 Whereupon,

13 CAPRICIA P. MARSHALL

14 was called as a witness and, having first been duly
15 sworn, was examined and testified as follows:

16 EXAMINATION

17 BY MR. DINH:

18 Q Can you state for us your name for the
19 record.

20 A Capricia Penavic Marshall.

21

22

1 Q Your office phone number?

2 A My office phone number, 202-456-7064.

3 Q Do you share that phone with somebody else
4 or is it just your personal line?

5 A No, it's pretty much my line.

6 Q Does anybody else answer the line or use
7 the line?

8 A Yeah. We have an intern and there's
9 another young man in the office, assistant, who
10 answers that line as well.

11 Q How often does the intern or the other
12 assistant use the phone to make outgoing calls?

13 A Oh, often.

14 Q Often. How about answering the phone?

15 A Yeah.

16 Q Do they answer the phone for you?

17 A Yes.

18 Q But you consider that to be your line, your
19 primary line?

20 A Yes.

21

22

1 Q Do you have any roommates?

2 A I have a husband.

3 Q Any children?

4 A No.

5 Q From the notice of your deposition, have
6 you had any conversation with anybody other than your
7 attorney and family members about the substance or
8 subject matters that you're about to be asked to
9 testify about?

10 A Have I done what?

11 Q Have you talked to anybody outside of your
12 family or your attorney about the subject matter that
13 you have been called to testify about?

14 A No.

15 Q Without telling me what you were asked or
16 what you said, can you tell me whether or not you've
17 been interviewed or questioned under oath by another
18 investigative agency with respect to the matters that
19 you've been asked to call about?

20 A Yes.

21 MR. BRAY: Let me just mention we will tell
22 you that this morning Mrs. Marshall did appear before

10

1 the Grand Jury being run by Independent Counsel
2 Mr. Starr and his staff, and she completed testimony
3 down there today.

4 BY MR. DINI:

5 Q Was this your only testimony before another
6 investigative agency regarding these matters?

7 A Yes.

8 Q What is your current position at the White
9 House?

10 A I am special assistant to the First Lady.

11 Q How long have you been there in that job?

12 A Ever since January 20th, 1993.

13 Q So since the beginning of the Clinton
14 administration?

15 A Yes.

16 Q Where were you before that?

17 A I worked on the campaign prior to that.

18 Q How did you get involved in the campaign?

19 A I started in Ohio. I gained interest in
20 President Clinton because I thought that he was one
21 of the better candidates that was out there. And I
22 sort of found out through friends who was working on

1 it, and I then gathered more information, started to
2 go out on the road, doing sort of home chats with
3 people about President Clinton, and pretty much
4 started the campaign offices in Ohio.

5 Q Let me back up just a little bit. Would
6 you take a moment just to describe to me briefly your
7 educational and professional background up to the
8 point you joined the campaign.

9 A I have a bachelor of arts and science, and
10 I have a JD.

11 Q And you call your home Ohio?

12 A I'm from Cleveland.

13 Q So what was your role in the Ohio office of
14 the campaign?

15 A It was basically to try to start root
16 support, grassroots support. And then we went into
17 the delegate selection system and I tried to figure
18 that out because it's sort of a complicated system.
19 And I assisted in putting together -- how you go
20 about putting delegates together, and how they get
21 voted in, and things like that.

22 Q Were you in charge of the office?

1 A Was I in charge of the Ohio office?

2 Q Of the Ohio office.

3 A No, there were several people. And there
4 really wasn't an office per se at the beginning.
5 There was just everyone working from their homes and
6 putting things together and just trying to gain
7 support.

8 Q Did you stay at that office throughout the
9 campaign, or did you at some point join the Arkansas
10 main headquarters?

11 A Again, there wasn't really an office so it
12 was like --

13 Q Right.

14 A -- I didn't stay at that. Once I started
15 on the road, because then I went on the road, and
16 again when you're on the road, you work from -- home
17 base becomes your own personal home. So I worked
18 from Cleveland and I went on the road. And I was an
19 advance person. And that means I went ahead and
20 prepared a lot of the visits that the principal would
21 be coming to.

22 Q Who was your supervisor in the advance

1 team?

2 A Who was my supervisor? Well, there was a
3 scheduling office, there was both Presidential
4 scheduling and First Lady scheduling and the office
5 of advance. And I can't remember who the fellow was
6 that was the head of the office of advance.

7 Q But you were within the office of advance
8 of the campaign?

9 A Yes.

10 Q And you reported to this individual who was
11 the head of the office?

12 A Yes, yes.

13 Q Was that your role throughout the campaign
14 until the election in November?

15 A No, it wasn't. I primarily requested to do
16 advance work for Mrs. Clinton so that -- because I
17 thought she was a pretty terrific person. And then
18 we sort of got to know one another, and at the
19 convention, I increased my activity with her, and I
20 would go and do various events in New York. I would
21 handle various events for Mrs. Clinton, logistics and
22 things of that sort, just movements.

1 And after the convention, I went on the bus
2 tour with them, which was great fun. And again I did
3 a lot of logistics work, handling, if we're going to
4 a rope line, if we're want going to a rope line, who
5 we will see somewhere, things of that sort. And once
6 we returned to Arkansas after the first bus trip,
7 then it was talked about and I went on the road with
8 her. I traveled with her on the plane during the
9 general election.

10 Q So after the first bus trip, you were --
11 your function in the campaign dealt primarily with
12 the First Lady and her travel and other needs?

13 A Yes, primarily.

14 Q And does that continue until the end of the
15 campaign, the election?

16 A That I traveled with her primarily and that
17 my functions were with Mrs. Clinton, yes.

18 Q Did you serve in any role during the
19 transition?

20 A Yes. I stayed in Arkansas during the
21 transition time and I spent a considerable amount of
22 my time in the basement of the Governor's Mansion.

1 There were several people who were down there who
2 were dealing with correspondence coming in,
3 communications with the D.C. office and the Inaugural
4 Committee.

5 Q During the time that you were working
6 primarily with Mrs. Clinton, during the campaign,
7 after the first bus trip, do you remember who your
8 primary supervisor was?

9 A Yes. It was Jody Franklin who was the
10 chief of staff at that time and then it quickly
11 changed to Maggie Williams.

12 Q Was that the first time you met the First
13 Lady or Governor Clinton, was your activities during
14 the campaign?

15 A Yes, it was.

16 Q Did you meet Mrs. Clinton first, or did you
17 get the pleasure of meeting the President first, or
18 then-candidate?

19 A I don't remember.

20 Q Let me ask you more now about your special
21 job to currently. I'm sorry, I neglected to take
22 notes. Can you repeat for me your title again?

1 A Special assistant to the First Lady.

2 Q That's what I thought. I wasn't sure
3 whether it was the First Lady or the President.

4 A Yes, there is a difference. As you
5 probably -- special assistant to the President is you
6 get one of those documents, I forget exactly what
7 they're called, but it's a different -- I don't rank
8 that high.

9 Q What are your duties as special assistant
10 to the First Lady?

11 A My duties as special assistant to the First
12 Lady entail being with her from the beginning of the
13 day until late at night. I basically shadow
14 Mrs. Clinton. I go with her to various events,
15 activities are held in the White House and sometimes
16 outside of the White House. I would take
17 communications for her, at times return phone calls
18 for her, receive phone calls for her.

19 I also handle quite a bit of follow-up,
20 follow-up that comes off of trips. That would be
21 correspondence, gifts, making sure that they get to
22 the gift unit and they're registered, that thank yous

1 have been sent; also making sure that personal
2 correspondence responds to people in a relatively
3 timely fashion.

4 I as well will substitute for various staff
5 members. I have -- you know, if our trip director
6 can't make the trip, I then go in her stead. If the
7 deputy chief of staff is unable to go on a trip, I
8 oftentimes will go in her place. I generally make
9 most of the long distance trips and stay off of the
10 short distance.

11 Q Sounds like a busy job.

12 A It is. But it's interesting.

13 Q What do you consider to be -- start from
14 the bottom up and from the last to the first. What
15 do you consider to be a normal long distance trip,
16 just so I can gauge --

17 A Mainly foreign trips, foreign travel is our
18 longest types of trips. Those generally will go for
19 three, four days, sometimes, you know, a couple of
20 weeks.

21 Q Do you also make trips that are of long
22 duration while not necessarily long distances?

18

1 A I'm sorry?

2 Q Do you also accompany the First Lady on
3 trips that are of long duration rather than long
4 distances?

5 A That's sort of what I meant.

6 Q Oh, okay. Got you. Sorry. With respect
7 to your role as the -- ensuring that personal
8 correspondence are returned in a timely manner, would
9 you say then that you work closely with or have a
10 supervisory relationship with the First Lady's
11 correspondence office?

12 A No, no, I do not have any sort of
13 supervisory. I just send them correspondence that
14 needs to be responded to and just say hey, you guys
15 getting this out and they say yeah, we're making sure
16 we get it out.

17 Q More of a follow-up function --

18 A Yes.

19 Q -- just to make sure to cover all grounds?

20 A Yes.

21 Q Do your duties include any sort of
22 recordkeeping for Mrs. Clinton?

1 A No, no.
2 Q So you don't -- do you keep files in your
3 office with respect to the things that you are doing?
4 A With respect to what things that I'm
5 doing?
6 Q To your functions that you are doing --
7 A Like follow-up?
8 Q -- like correspondence follow-ups,
9 communications, things like that?
10 A A few, not many.
11 Q Most of them are more instantaneous, you
12 pass on the letter to the correspondence people, you
13 follow it up with a phone call, you may have a memo
14 pad somewhere or a calendar, but nothing of a filing
15 nature?
16 A Once I receive correspondence that needs to
17 go out, I make sure that it gets to where it's
18 going. Generally, that is it.
19 Q You don't keep a copy of that?
20 A No. I would have quite a stack if I did.
21 Q Did, at any time during the campaign --
22 let's say after the first bus trip, did any of your

20

1 duties include recordkeeping for the campaign or for
2 the First Lady?
3 A No.
4 Q Was it -- were you serving the First Lady
5 in approximately the same functions that you do now,
6 but albeit in a different context?
7 A Yes, approximately.
8 Q Do you do -- do you handle any of the
9 scheduling for Mrs. Clinton?
10 A No, not really. If the scheduler is out of
11 town, if she's away on a trip, then at times I'll
12 just handle some of her more personal appointments.
13 Q Who is the scheduler?
14 A Patti Solis. P-a-t-t-i, S-o-l-i-s.
15 Q Thank you. I notice you can read upside
16 down.
17 MR. IVEY: Good lawyer skills.
18 BY MR. DINH:
19 Q And does Ms. Solis deal exclusively with
20 scheduling? Is that her primary and sole function,
21 or does she have other functions?
22 A No, that is her primary and sole function.

1 Q Do you deal with guests to the White House
2 at all?

3 A House guests or --

4 Q Yes, the White House residence guests.

5 A People who are spending the night?

6 Q Yes.

7 A Yes, I do.

8 Q In what capacity do you deal with them?

9 A Well, generally I see them in, like, the
10 hallways, and if they have questions, I'll direct
11 them to certain areas. I mean, if they want to use
12 the exercise equipment, I'll show them how to get
13 there. If they want to get a video out of the book
14 room, I'll show them, where the videos are, and
15 things like that. I'll just sort of help them
16 because I'm around, I'm the person who's around.

17 Q General assistance also?

18 A Uh-huh.

19 Q You don't schedule their stays or make
20 arrangements for their visits before they come to
21 town?

22 A No, that's handled by Carolyn Huber.

1 Q Other than this informal assistance
2 function, do you have any other duties or dealings
3 with the guests to the White House residence?

4 A No, not really.

5 Q Nothing official like taking them around,
6 or showing them Washington, D.C., or anything like
7 that?

8 A No, I don't show them Washington, D.C. I
9 might show them the residence, and just take them on
10 a tour of neat places in the residence. If they're
11 not staying in the Lincoln Bedroom, you show them the
12 Lincoln Bedroom and things like that.

13 Q Do you report directly to Mrs. Clinton?

14 A Yes, I do. I also report to Maggie and
15 Melanne Veveer.

16 Q What is Ms. Veveer's position?

17 A She's deputy chief of staff.

18 Q To the First Lady?

19 A Yes.

20 Q Do you work closely with Carolyn Huber?

21 A No. She's just down the hall from me, so
22 we see one another in the proximity of our office.

1 Q You don't have any reporting or supervisory
2 function with respect to Ms. Huber?

3 A Oh, no. No, no.

4 Q Do you have assistants who work for you?

5 A There is not an assistant who works
6 specifically for me but there is someone who helps in
7 the office, that generally helps the entire First
8 Lady's office.

9 Q And what is the name of this person?

10 A His name is Eric Hothem, H-o-t-h-e-m.

11 Q And this is the same assistant that you
12 said picks up your telephone when you're not around?

13 A Answers telephones, yes.

14 Q And does the intern also help assist you in
15 your duties?

16 A Yes, but she -- well, we've had a few.
17 We've had a couple of interns.

18 Q More a rotating basis?

19 A Yes.

20 Q How long do interns usually stay there?

21 A Four months, three months. It varies.

22 Q Do you happen to remember the name of the

24

1 intern who was there during the period, end of July
2 beginning of August 1995; that is, last year?

3 A We didn't have one.

4 Q You didn't have one.

5 So you work very closely with the First
6 Lady?

7 A Yes.

8 Q You see her on a daily basis?

9 A Absolutely.

10 Q And you said you were her shadow --

11 A Yes.

12 Q -- as it were, so you follow her around
13 everywhere.

14 Let me turn your attention to a period I
15 know is a little bit remote both in time frame and
16 maybe in your mind, but the period is July 20th
17 through July 27th, 1993.

18 A July 20th -- okay.

19 Q And if I can place that for you,
20 independent of the date, July 20th is when deputy
21 White House counsel Vincent Foster committed
22 suicide. Were you traveling with the First Lady at

1 the time?
2 A Yes, I was.
3 Q Were you there for the entire trip?
4 A Yes, I was.
5 Q So you were in Hawaii with her?
6 A Yes, I was.
7 Q And then you came back to Los Angeles?
8 A Yes.
9 Q Do you remember, approximately how long was
10 the stay in Los Angeles?
11 A I don't really recall. I think maybe two
12 days.
13 Q Okay. And then from Los Angeles, you went
14 with the First Lady to Little Rock?
15 A Yes.
16 Q Do you remember approximately what time the
17 plane landed?
18 A Do I remember what time the plane landed.
19 Q Approximately, the time the plane landed in
20 Little Rock.
21 A No. I just know it was in the evening,
22 that's all.

1 Q And then you traveled with her back to
2 Washington?
3 A Yes, I did.
4 Q Did you subsequently go with the First Lady
5 back to Little Rock for Mr. Foster's funeral later on
6 that week?
7 A No, we stayed in --
8 Q Oh, you stayed, you stayed in --
9 A Yes.
10 Q -- Little Rock for the funeral. And then
11 on Saturday, you flew back with the First Lady to
12 Washington?
13 A Right.
14 Q Did you attend Mr. Foster's funeral?
15 A Yes, I did.
16 Q Directing your attention specifically to
17 the night of July 20th, when -- can you describe to
18 me the circumstances when you heard the news of
19 Mr. Foster's death?
20 A When I specifically heard the --
21 Q When you specifically heard the news of
22 Mr. Foster's death.

1 A I was in my hotel room with my two
2 traveling companions, the people who -- the press
3 secretary and logistics trip director.

4 Q And which hotel was this?

5 A The Excelsior.

6 Q And that would be Lisa Caputo who you were
7 staying with?

8 A Yes.

9 Q And who was the other person?

10 A Kelly Craigham.

11 Q Okay. I'm sorry to interrupt you.

12 A No, that's all right. And we were in our
13 hotel room and the phone rang, and I answered the
14 telephone. And it was Mrs. Clinton, and she told me
15 that she didn't want us to see it on television, that
16 Mr. Foster had committed suicide.

17 Q Do you remember approximately when this
18 was, what time of night it was?

19 A It was later in the evening. I just, I
20 can't pinpoint a time really.

21 Q The plane landed and then did you go with
22 Mrs. Clinton to Mrs. Rodham's residence?

1 A Yes, I did.

2 Q And then you stayed there for a while with
3 Mrs. Clinton?

4 A For a short time.

5 Q For a short time. And then you left to go
6 to your hotel?

7 A Yes.

8 Q Did Ms. Caputo leave with you to go to the
9 hotel?

10 A Yes, she did.

11 Q At the time -- during the time you were at
12 the Rodham residence, you did not hear any news of
13 Mr. Foster's death?

14 A No, I hadn't.

15 Q Nor on the ride back?

16 A No, I hadn't.

17 Q All three of you got back to the hotel.
18 Did you share the same room?

19 A Myself and Kelly Craigham had shared the
20 same room, and Lisa Caputo's was connecting so
21 whenever our rooms are connecting, we open up the
22 doors.

- 1 Q And on this night was it open?
2 A Yes, it was.
3 Q And Lisa was in her room?
4 A Yes, she was -- actually she was in my
5 room.
6 Q You were in your room, sharing like sort of
7 a common area, as it were?
8 A Yes.
9 Q And all three of you were there at the time
10 Mrs. Clinton called and gave you the news?
11 A Yes, we were.
12 Q Did Ms. Caputo give any indication that she
13 at this time knew about the news of Mr. Foster's
14 death?
15 A No, she didn't.
16 Q Did she tell you -- she didn't tell you
17 previously that Mr. Foster had passed away?
18 A No, I don't know how she could have known.
19 Q And she, like you I presume, expressed
20 surprise at the news?
21 A Oh, absolutely.
22 Q While you were -- what then did you do --

30

- 1 what then did you do after receiving this phone call?
2 A We were just sort of shocked and we got --
3 we were really upset. We all just started trying to
4 figure out why, and we couldn't figure out why or how
5 this could have happened. And I think we might have
6 gotten something to eat.
7 Q From the hotel or did you go out?
8 A You know, I don't remember.
9 Q So you had a conversation amongst the three
10 of you about the news?
11 A Yes, yeah, we were --
12 Q And then you might have gone out to get
13 something to eat?
14 A Yes, we were just really surprised.
15 Q At any point did you make it back to the
16 Rodham residence that evening on the July 20th --
17 A No, we did not.
18 Q -- or early the next morning?
19 A We did not go back that evening. Don't
20 recall if we went back early the next morning. I
21 believe we might have gone back the next afternoon.
22 Q By early next morning, I meant like a

- 1 continuation of the evening.
2 A Oh, no.
3 Q So you went and had your dinner, your meal
4 and then you went to sleep?
5 A Yes.
6 Q And then at some time, at some point during
7 the next day, you made your way back to the Rodham
8 residence?
9 A Yes.
10 Q Let me turn your attention back --
11 A Wait, at some point, somewhere --
12 Q Some point during the next day, in the
13 afternoon some point, you made your way back to the
14 Rodham residence?
15 A Yes.
16 Q Let me turn your attention back now, if you
17 can follow me. After you landed at the airport,
18 going to the Rodham residence, were you in the same
19 car with Mrs. Clinton?
20 A No. Chelsea and her mom, I think, were in
21 the same car with her.
22 Q You followed in a support car, van?
-

- 1 A Yes.
2 Q Van?
3 A A support van.
4 Q Van. Okay. With Mrs. Caputo and
5 Ms. Craigham?
6 A Yes.
7 Q And then you were at the Rodham residence.
8 Can you -- and I know you testified to this before.
9 Can you give me a more definite estimate as to how
10 long you were at the Rodham residence?
11 A That's very tough to remember. You know,
12 this was 1993. It's difficult for me to remember.
13 Q Did you walk with Mrs. Clinton into the
14 house?
15 A Oh, yes, because we got all of her things
16 in.
17 Q You unpacked her things?
18 A We brought the luggage in.
19 Q Did you unpack her luggage for her?
20 A I don't know if I completely unpacked her
21 luggage, but I put it in an area, in a room where she
22 was going to be, and made sure it was accessible.

1 And --

2 Q And I take it you did the same thing for
3 Chelsea?

4 A Yes. And then I remember we sort of sat
5 around the dining room table and chatting about -- I
6 think it was just talking and hanging out sort of
7 deal.

8 Q Unwinding from a trip?

9 A Yes.

10 Q Do you remember the topic of conversation,
11 nothing of note?

12 A Oh, no. No, we were all sort of slaphappy
13 I remember because it was a long trip.

14 Q A long trip from Hawaii?

15 A A long trip all the way around. We went to
16 Japan, and then Hawaii, and then California, and then
17 Arkansas.

18 Q You didn't have significant -- how long --
19 I mean, I know you answered -- were you there a
20 matter of days or hours in Los Angeles, was the
21 layover? Do you remember?

22 A Oh, no. It was definitely a couple of

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1 days.

2 Q Okay. But by this time, it's been --
3 you've been weary by travel with the long trip?

4 A Oh yeah, I'd been away from my husband for
5 three weeks. It was a long trip.

6 Q I thought you meant trip as in flight.

7 A No.

8 Q Apologies. So all this time, Ms. Craigham
9 and Ms. Caputo was also with you?

10 A Yes, they were.

11 Q And then after this chat, did you then
12 leave, or did you do something else?

13 A Yes. Ms. Rodham actually sort of looked at
14 us and suggested that we go. That's Mrs. Rodham,
15 Dorothy who lives there.

16 Q Mrs. Clinton's mother?

17 A Yes.

18 Q And then you left in the van?

19 A Yes, I think that we were driving our van
20 then.

21 Q And with Mrs. -- with Ms. Caputo and
22 Ms. Craigham, the three of you?

1 A Yes.

2 Q Anybody else, Secret Service or anybody
3 like that?

4 A No, I don't remember anybody else going
5 with us.

6 Q During the time from when you arrived at
7 the Rodham residence and from when you left, do you
8 remember Mrs. Clinton getting any phone calls?

9 A Yes, I do. We were in the dining room. I
10 think maybe -- I don't remember if she went and
11 answered the phone or if Mrs. Rodham answered the
12 phone, but somehow or another she got a phone call.
13 She went into the kitchen. She went to the back part
14 of the kitchen. It's sort of long, and --

15 Q A different part of the room, or a separate
16 room altogether?

17 A A separate room. And we waited for her to
18 come out and she just, she didn't. I went to go get
19 something to drink and I could tell that she was
20 pretty upset. And so we all looked at one another
21 and Mrs. Rodham said I think you should go, so we all
22 said we better go.

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1 Q Do you know who the call was from?

2 A No, I don't.

3 Q You didn't take the call?

4 A No, I didn't.

5 Q Did you make any calls when you were at the
6 hotel after you learned the news of Mr. Foster's
7 death?

8 A None that I recall, no.

9 Q Did either one of your colleagues,
10 Ms. Caputo or Ms. Craigham?

11 A None that I know of.

12 Q Because you were there all together,
13 sharing the loss, and then eating, and then going to
14 sleep?

15 A Yes. Well, we didn't go to sleep together.

16 Q Well, in the same room, at the same time I
17 suggest.

18 A Careful.

19 MR. DINH: Off the record.

20 (Discussion off the record.)

21 BY MR. DINH:

22 Q Did you call your husband that night?

1 A I don't remember. I don't remember. I
2 don't remember.

3 Q Let me turn your attention now to -- well,
4 did anything out of the ordinary, let's put it that
5 way, knowing that this entire chain of events is
6 rather extraordinary, given that a close colleague
7 had passed away. But did anything out of the
8 ordinary happen on the 21st that you recall, after
9 the time you arrived at the Rodham residence?

10 A The 2 --

11 Q The 21st, the next day?

12 A The next day, anything out of the
13 ordinary.

14 Q Yes, anything that strikes your memory now,
15 as you sit back, as worth commenting on.

16 A No, just that everybody was really upset.

17 Q Right. Right. Were there a lot of
18 communications back and forth to the White House or
19 to other people in Washington at that time?

20 A No -- well, by whom?

21 Q By Mrs. Clinton.

22 A Oh, I don't know about any communications

1 she made.

2 Q How about by other people within her
3 entourage?

4 A You mean by myself or Kelly or Lisa?

5 Q Exactly, you three.

6 A We were just trying to learn of are we
7 staying here, are we leaving. We didn't know sort of
8 how or what our roles became. We just wanted to find
9 out are we still staying at this hotel, you know,
10 sort of those things.

11 Q And who did you deal with, Maggie Williams?

12 A No, we called Patti.

13 Q Patti Solis?

14 A I think Patti would have been the
15 logical -- I can't say for certain who it was I
16 called, but I think Patti would have been a logical
17 person.

18 Q During these two days did you have any
19 conversation with Ms. Susan Thomases?

20 A No, none that I recall.

21 Q Let's go forward to the next day, July
22 22nd. What time did you -- I take it you went back

1 to your hotel on the night of the 21st?

2 A Yes, we did.

3 Q You did not stay at the Rodham residence?

4 A No, we did not.

5 Q What time did you make your way to the
6 Rodham residence the next day?

7 A I don't remember actually going there. I'm
8 not sure. I mean, those days are kind of fuzzy to
9 me. I mean, was that the day of the funeral?

10 Q No, it was not. It was not. It was -- can
11 we go off the record for one second.

12 (Discussion off the record.)

13 BY MR. DINH:

14 Q Now that we've had a chance to refresh your
15 memory and compare our notes, I think both Mr. Ivey
16 and I agree that Tuesday was the 20th, the date of
17 the death. The 21st, which I've questioned you
18 about, was the Wednesday. The 22nd therefore is the
19 Thursday, and the 23rd is the day of the funeral.

20 A Okay.

21 Q The 24th, Saturday, is when I believe you
22 all flew back to Washington together. So Thursday is

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1 the day before?

2 A No, we flew back right after the funeral I
3 believe.

4 Q Right after the funeral then?

5 MR. IVEY: Actually I'm not sure if the
6 funeral was Friday or Saturday. I don't know. I
7 don't recall for sure.

8 BY MR. DINH:

9 Q The 22nd is the Thursday. Did you make
10 your way to the Rodham residence that day?

11 A I don't remember.

12 Q You don't remember?

13 A I don't remember if it was -- you know, I
14 mean, what happened on which of those days exactly.

15 Q But there was one day you stayed in your
16 hotel?

17 A The whole day?

18 Q Yes. Or there was one day you did not go
19 to the Rodham residence?

20 A No, I can't say for certain.

21 Q Okay. So but presumably you went to the
22 Rodham residence at some point?

1 A On which day?

2 Q On the 22nd, the Thursday?

3 A I don't know. What I do know is that I
4 went with -- I believe one of those days Chelsea had
5 some personal appointments and I went with her to a
6 couple of her personal appointments. But that's all
7 I remember. I don't know if it was the 21st, 22nd,
8 23rd, which day it ended up falling on. And we went,
9 you know, to some of those, and so we just picked her
10 up and then we went. So I don't know.

11 Q And you just went over there and then --
12 went over to the Rodham residence, picked her up and
13 then dropped her off afterwards?

14 A Yeah, I think so.

15 Q Did you spend any significant amount of
16 time in the Rodham -- at the Rodham residence during
17 this three-day period?

18 A I don't remember a specific time period.
19 Generally what I do remember is not going inside,
20 that we sort of hung outside because it was -- you
21 know, there was a moment of grieving going on there.
22 It was really sad, and trying to give some space,

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1 some distance, be respectful.

2 Q And inside the house were whom?

3 A At what point?

4 Q Generally when you were trying to give
5 space, is it just Mrs. Clinton and her mother and
6 Chelsea, or were there other people who were in
7 there?

8 A Well, the President eventually came down
9 but I don't remember which date he came down. And --

10 Q Let's focus on the time before he came, the
11 President arrived.

12 A Was it just generally them, yeah, generally
13 it was those three who were in the house.

14 Q And all three of you, Ms. Caputo, you and
15 Ms. Craigham, had stayed outside when you were at the
16 Rodham residence?

17 A Well, we may have gone inside to get
18 something to drink or, you know, are you doing okay
19 and things of that sort, but yeah, we generally sort
20 of just gave distance, hung out in the garage which
21 is connected to the house.

22 Q But you weren't hanging out in the

1 residence itself --

2 A No.

3 Q -- you were hanging out outside; unless you
4 had a specific reason to go in the residence, you
5 wouldn't go in the residence?

6 A It's a small house, so.

7 Q How big is the house?

8 A It's small.

9 Q Two bedrooms, three bedrooms?

10 A There's one main bedroom. I believe a
11 little guest area, and then they converted the
12 basement which is sort of a sitting area, I think
13 it's a fold-out bed.

14 Q And there were Secret Service personnel
15 present also?

16 A Oh, yes, oh, yes.

17 Q Outside and inside?

18 A No, never inside. Outside.

19 Q Outside, on the perimeters?

20 A Yes.

21 Q For this period, let's say from July 20th
22 until when President Clinton arrived in Little Rock,

1 did you witness any -- aside from the telephone
2 conversation you've already testified to, did you
3 witness other telephone conversations that
4 Mrs. Clinton had with anybody while she was in the
5 Rodham residence?

6 A No, none that I recall.

7 Q Again during this period, did you talk
8 to -- expanding -- I've asked you the question
9 earlier regarding the 20th and the 21st. Expanding
10 the time frame to include up to the point when
11 President Clinton arrived in Little Rock, did you
12 talk to Ms. Susan Thomases?

13 A No, not that I recall.

14 Q Let me turn your attention now back again
15 to July 22nd.

16 A Okay.

17 Q Do you -- and you testified earlier you
18 didn't know which day you were at the residence or
19 what time.

20 Did you place any calls to Maggie Williams
21 that day that you can recall?

22 A Did I personally place any calls to Maggie

1 Williams? No, none that I recall.

2 Q Did you page Ms. Maggie Williams? Maybe
3 that is a more specific question.

4 A Not that I remember, no.

5 Q And you don't recall being at the Rodham
6 residence, specifically being at the Rodham residence
7 on that date?

8 A I may have. I just don't remember. I
9 don't remember specifically one day from the next.

10 MR. BRAY: Sorry. What day are you talking
11 about now?

12 MR. DINH: July 22nd, the Thursday after
13 Mr. Foster's death.

14 MR. BRAY: This is, as best you can
15 remember, this is a day, maybe two days before the
16 funeral.

17 MR. DINH: Yes, precisely. Precisely. Two
18 days after the death.

19 BY MR. DINH:

20 Q Let me show you an exhibit marked Z655.
21 And let me ask you to look at the last entry in that
22 series of entries there.

1 MR. BRAY: Do you have another copy?

2 MR. DINH: There.

3 BY MR. DINH:

4 Q And let me explain to you that these were
5 produced to us from the White House and they are
6 Margaret Williams's pager records. And if you will
7 bear with me, the number, the beginning number toward
8 the right column there, the first four numbers is the
9 time, 12:47 P. And the next set of four numbers are
10 the dates, 07/22. And so this indicates that at
11 12:47 p.m. on July 22nd Ms. Williams received a
12 page. Can you read that, the text on that page for
13 me?

14 A It states "please call Capricia at Rodham
15 residence."

16 Q And "operator 3484," something like that --

17 A Something like that, yeah.

18 Q -- is the thing.

19 Does that help refresh your memory with
20 respect to my questions earlier on relating to
21 whether you were at the Rodham residence and whether
22 you had paged Ms. Williams?

1 A No, it does not.

2 Q You don't -- you would -- you were -- do
3 you remember whether you were at the Rodham
4 residence?

5 A I don't remember being, exactly which day I
6 was at the Rodham residence. There were times that I
7 was at the Rodham residence within that time period.
8 I just don't remember at which time period I was
9 there.

10 Q During one of the time -- one of the time
11 periods that you were at the Rodham residence, did
12 you place a page to Ms. Williams? Do you recall
13 placing a page to Ms. Williams?

14 A I don't recall that.

15 Q Do you recall anybody asking you to put a
16 page to Ms. Williams?

17 A No, I don't recall that.

18 Q Do you recall anybody telling you to expect
19 a call from Ms. Williams?

20 A No, I don't.

21 Q And so it is your testimony that you don't
22 remember this particular -- any specific beyond

1 what's stated here on the paper in front of you with
2 respect to this particular page?

3 A No.

4 MR. BRAY: Excuse me. I'm not sure I
5 follow what you were saying there. I thought what
6 she was saying is the page doesn't refresh her.

7 MR. DINH: Right.

8 MR. BRAY: That is, she doesn't recall what
9 purports to be on the page even after seeing it.
10 Your question seems to suggest you don't remember
11 anything other than what's on the page. She doesn't
12 remember what's here.

13 MR. DINH: Thank you. Thank you for
14 clarifying.

15 MR. BRAY: At least I think that's -- I
16 just wanted to clarify.

17 THE WITNESS: That is exactly what I was
18 trying to say.

19 Can I ask you a question?

20 MR. DINH: Off the record.

21 (Discussion off the record.)

22 BY MR. DINH:

- 1 Q By the way, do you carry a cellular phone?
2 A Do I carry a cellular phone? Now or --
3 Q Yes.
4 A Yes, I carry a cellular phone now.
5 Q Did you carry a cellular phone in July of
6 1993?
7 A I don't know if I was given one then or
8 not. They're pretty hard to come by.
9 Q They are pretty hard to come by?
10 A Yes.
11 Q Do you use other people's cellular phone
12 when you make calls for the First Lady or other
13 official calls?
14 A Yes, I have on occasion.
15 Q Borrow?
16 A Yes.
17 Q Do you remember using another person's
18 phone during this period, say, July 22nd or one of
19 the days that you were at the Rodham residence?
20 A No, I don't.
21 Q You don't remember?
22 A No, I don't remember.
-

- 1 Q Just as a technical -- when you call
2 somebody to leave a page --
3 A Uh-huh.
4 Q -- whom do you call?
5 A You call either -- you call one of the
6 operators. You call either the White House operator,
7 or at least my practice is to call the White House
8 operator, or to call the signal operator. And I
9 mean, I don't know if this is a point of
10 clarification but I oftentimes -- just recently,
11 actually yesterday, I sent a page out for someone and
12 it came back to me to call myself.
13 Q And the White House operator, I take it,
14 you would dial 202-456 and whatever the general
15 operator number is?
16 A Yes.
17 Q And the signal operator, is it also a 202
18 area code number?
19 A Yes, it is.
20 Q 456 number?
21 A No, 757.
22 Q 757, and then another four digits will

1 connect you with a signal operator?

2 A Yes.

3 Q Signal is the White House communications --

4 A There actually is a third way that I know
5 of now, I don't know if I knew of it then, but you do
6 a 1-800 number and that also sends you through
7 signal.

8 Q But at the time, though, you did not have
9 this 1-800 number, at least you personally did not
10 know about it?

11 A I don't remember if I knew or not.

12 Q Do you know if it was in existence at this
13 time?

14 A Oh, from what I understand, it's always
15 been in existence.

16 Q When you do call the White House,
17 independent of sending a page, independent of sending
18 a page, and without having the direct dial number of
19 a particular party, what number do you call, do you
20 call the White House operator?

21 A 1414? Is that what you mean, the 456
22 number?

1 Q Yes.

2 A Yes.

3 Q You just call that general number, the 456
4 number, and asked to be patched through to whoever it
5 is that you want to talk to?

6 A Yes.

7 Q Is there another number you use in order to
8 reach the White House operator that you know of?

9 A No.

10 Q And you -- obviously you have not used any
11 other number except for the 456-1414 number in order
12 to reach the White House operator?

13 A Well, you can go through signal and they'll
14 patch you through, or you can do the 800 number and
15 that will patch you through.

16 Q But the White House operator itself, the
17 456 number, there is no way -- you don't use any
18 other -- other than the 1-800 or signal, you don't
19 have -- you don't use another means to reach the
20 White House operator?

21 A Well, no, unless I ask someone to transfer
22 me. So if I'm calling someone and I need to now talk

1 to the White House operator, they can transfer you to
2 her, or him now. We have now one male operator.

3 Q So let's now recap so we're completely on
4 the same page. From the time, from July 20th to the
5 time when President Clinton arrived at the -- in
6 Little Rock for Mr. Foster's funeral, you witnessed
7 one telephone conversation by Mrs. Clinton, that was
8 on the night of the 20th, toward the end of the night
9 when you left the -- right before you left the Rodham
10 residence?

11 A No, that's not correct. What I said was
12 that she received a telephone call. I didn't witness
13 the telephone call. She received it. So I don't
14 know, when I walked into the kitchen, if she was
15 still on the phone. Her head was hanging down. She
16 looked very upset. But I did not see her actually
17 chatting on the telephone.

18 Q You didn't hear anything she said?

19 A Didn't hear anything.

20 Q Except to observe that she was upset?

21 A Yes.

22 Q You didn't know who it was from?

1 A No, I did not.

2 Q Other than this phone call, did you ever
3 see, hear, see or hear Mrs. Clinton receiving or
4 making another phone call during this period between
5 7/20 and the time when President Clinton arrived in
6 Little Rock?

7 A I can't recall with any exact memory now.

8 Q So you went back to Washington with
9 Mrs. Clinton after the funeral?

10 A Yes, I did.

11 Q Did you work that weekend?

12 A I believe I might have taken a day off
13 because I hadn't seen my husband for a while, but I
14 don't remember.

15 Q That would be Sunday?

16 A Yes.

17 Q At the funeral, did you have a conversation
18 with Ms. Thomases?

19 A I don't remember seeing her there.

20 Q Actually scratch that. You're right. She
21 was not there.

22 With Ms. Williams.

1 MR. IVEY: I thought you said no trick
2 questions.
3 BY MR. DINH:
4 Q With Ms. Williams?
5 A The only thing that I remember was her
6 sobbing uncontrollably and people comforting her, and
7 that's it.
8 Q Did you personally comfort her?
9 A Yes. That was a hug.
10 Q Did you -- other than that, did you have
11 any conversation with Ms. Williams?
12 A No.
13 Q Do you know who Robert Barnett is?
14 A Yes, I do.
15 Q Did you see him at the funeral?
16 A I don't remember if I did or didn't.
17 Q Now you flew back with the First Lady to
18 Washington?
19 A Yes, I did.
20 Q Were you on the same plane?
21 A Yes, I was.
22 Q Were you near Mrs. Clinton?

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1 A I'm sure I saw her. I was around her, but
2 I wasn't right next to her.
3 Q Do you know who else -- this is not Air
4 Force One -- right? This is the plane that you took
5 from Hawaii?
6 A That's what I was trying to remember, yeah.
7 Q Do you know who else was in the -- was on
8 the plane with you other, than Ms. Craigham and
9 Ms. Caputo, and the Secret Service people?
10 A Yes, Secret Service, Chelsea and the
11 President. There were other people who came in for
12 the funeral, but I can't remember with explicit
13 memory who was on and who wasn't.
14 Q Do you remember if Ms. Williams was on
15 board?
16 A Yes, I believe Maggie flew back with us.
17 Q Do you remember if Mr. Barnett was on
18 board?
19 A No, I don't remember seeing him.
20 Q During this time and including from the
21 time President Clinton arrived in Little Rock and to
22 the time you were on the flight back, did you hear

1 any discussions about any files in Mr. Foster's
2 office?

3 A No, I did not.

4 Q Did you hear any discussion of activities
5 in Mr. Foster's office?

6 A No, I did not.

7 Q Did you hear of any such discussions prior
8 to President Clinton arriving in Little Rock?

9 A No, I did not.

10 Q Let me go to the next day now, which is
11 July 26, which is the Monday after presumably -- or
12 Sunday after. And again, were you with the First
13 Lady?

14 A That is a long time ago, and I can only
15 assume yes, I was.

16 Q Do you remember at any time during the
17 afternoon of July 26 Mr. -- do you know who Bernard
18 Nussbaum is?

19 A Yes.

20 Q Do you remember any time on the afternoon
21 of July 26 Mr. Nussbaum coming to see the First Lady?

22 A No, I cannot recall that.

1 Q Do you remember at any time Mrs. Clinton on
2 that day, that afternoon going to Mr. Nussbaum's
3 office?

4 A No, I do not.

5 Q Did you hear any talk of a note or of
6 Mr. Foster's note that day?

7 A No, I don't remember.

8 Q Have you come to subsequent knowledge that
9 there indeed was such a note?

10 A Yes, through newspaper reports and
11 television.

12 Q Was that the first time you heard of the
13 existence of the note?

14 A Yes, it was.

15 Q You did not hear it independently through
16 your position at the White House?

17 A No, I did not.

18 Q Did you have any discussion with anybody at
19 the White House regarding the note after you found
20 out about it?

21 A Just that we were surprised.

22 Q Let me take you now to July 27th, and I

1 promise this is the last day on this line of
2 questioning.

3 A Is that still 1993?

4 Q 1993, yes, the next day, on Tuesday.

5 A Okey-doke.

6 Q I take it again, as is the normal course,
7 you were with the First Lady?

8 A Yes, I was.

9 Q Did you see Mr. Barnett that day?

10 A Can I talk to him again, please.

11 Q Sure.

12 MR. BRAY: What day is this, Tuesday?

13 MR. DINH: Tuesday, July 27th, yes.

14 (Witness conferred with counsel.)

15 (Discussion off the record.)

16 MR. DINH: Can you read back the last
17 question.

18 (The reporter read the record as requested.)

19 THE WITNESS: "That day" is July 27th? Is
20 that --

21 BY MR. DINH:

22 Q Tuesday, July 27th, exactly one week after

1 Mr. Foster's death, yes.

2 A I don't have any personal recollection to
3 that, but I just came from a grand jury hearing and
4 they told me, I believe it was that day that they
5 said to me that I had gone up and said that
6 Mr. Barnett had asked me to waive him in or that I
7 waved Mr. Barnett in. And so that's the only
8 reference I sort of have that that might have been
9 the day that I saw him.

10 Q Did the record refresh your memory as to
11 whether you saw Mr. Barnett that day?

12 A What record?

13 Q Or that information, actually, that you
14 have come to know today, did that information refresh
15 your memory as to whether you saw Mr. Barnett that
16 day?

17 A I am very fuzzy about having seen him or
18 not seen him on that day, because I have, you know,
19 seen him on many occasions in the White House in the
20 past 3-1/2 years.

21 Q Right.

22 Let me ask you specifically about those --

1 the procedure for signing somebody in. Let's say I'm
2 Mr. Barnett or another lawyer representing the
3 interests of the First Lady, and I come in and say I
4 need to see -- I have an appointment or I need to see
5 the First Lady. I would call up to you?

6 A You may. You could call several people.

7 Q And then whoever I call or whoever comes
8 down then comes down and signs me in?

9 A No, that's not the process. The process is
10 that, you know, once you know who you're going to
11 wave in, you have to get their date of birth, their
12 full name and for most social functions you have to
13 have the Social Security number. But if it's not a
14 social function you generally don't. And you call
15 Waves and I think it's handled by uniform division
16 officers, and they check a person's background. And
17 then once the person gets to the gate, they have to
18 show identification and then they get a little badge
19 that allows them to come in.

20 Q And then -- but you, yourself, do not have
21 to be present at the entrance?

22 A To receive the person?

1 Q Yes.

2 A You don't have to be right at the entrance,
3 right at the gate. A person could walk up the
4 walkway or they could meet you in a foyer. It
5 depends upon which gate you're coming in as well. If
6 you have a specific gate it's a little easier to
7 describe what the process is.

8 Q Some gates require you to be at the -- to
9 be there in order to receive the person?

10 A Well, from what I understand the southwest
11 gate does.

12 Q The southwest gate being the 17th Street
13 entrance?

14 A No. No, that's the OEB, the Old Executive
15 Office Building, east street entrance. The north
16 west gate, generally if someone's coming in for me,
17 if they see me halfway down the driveway or even at
18 the door, they'll let the person walk up.

19 Q Are those the only two gates to the White
20 House?

21 A No, there's the east gate, you can come to
22 the east gate. They sometimes put you in a holding

1 room there. As well, you don't have to be the person
2 who waved them in, to receive the person.

3 Q Right.

4 A Someone can receive them on your behalf.

5 Q But somebody has to make the call to the
6 Secret Service requesting for them to be waved in?

7 A Yes.

8 Q How long approximately does this, do you
9 have to make this call before this person is admitted
10 in?

11 A It varies. Depends upon who is actually
12 doing the waving. It could be a few minutes, where
13 they put it through right away, or they might put it
14 off and give you some hassle and make it 15, 20
15 minutes.

16 Q Really. The uniform division has a check
17 on your waving in somebody?

18 A They just put it off. I guess they have
19 priority things.

20 Q So your guests would be waiting at the gate
21 during this time, during this period?

22 A No, they don't necessarily need to be --

1 well, yeah, I guess.

2 Q Or they could be on their way or something?

3 A Yes, they could be on their way.

4 Q But the guest doesn't have to be there to
5 initiate the call?

6 A To be at the gate to initiate the call, no.

7 Q It depends on who you are. Different
8 people get different treatment depending on whatever
9 position or status or familiarity within the Secret
10 Service? Is that what you mean by depends on who you
11 are as to the amount of time it takes?

12 A No, it depends on who the person in Waves
13 is. If they're a quick person, you get in right
14 away. If they delay things, they delay it.

15 Q So it could be as quick as a minute; it
16 could be as long as 15 minutes?

17 A Uh-huh, yes.

18 Q And you don't recall on 7-27 putting in a
19 call to Waves to admit Mr. Barnett?

20 A I very well may have. I've waved him in on
21 several occasions.

22 Q Let me share with you record S 12482 and

1 ask you to take a look at the last entry on the log.

2 Have you ever seen a similar record before?

3 A No.

4 Q Let me then advise you that these were
5 produced to us by the White House and these are
6 apparently the record of the wave system. And to
7 read it, there is a line up at the top designating
8 visitor, visitee, location of the visit and the
9 requestor and the time and the date. Can you, given
10 that guideline, can you read for me the last entry
11 there?

12 A It says "Barnett, Robert. First Lady,
13 U90150, 1500, 930727, W residence Marshall." I can't
14 read the last, "00" -- something.

15 Q That's okay. And approximately following
16 the guideline up at the top, that says that you
17 requested for Mr. Barnett to be waved in at
18 approximately 3:00 on July 27th, 1993 to see the
19 First Lady in the residence and the location, I
20 believe, is the W, marking the west -- west gate or
21 whatever entrance that would be. Does this refresh
22 your memory?

66

1 A No, it really doesn't.

2 Q Do you remember any conversation with the
3 First Lady during that day regarding a visit by
4 Mr. Barnett?

5 A No, I don't recall any conversations with
6 Mrs. Clinton regarding a visit by Mr. Barnett. But
7 what I would like to sort of add is that, generally,
8 whenever I make a phone call or someone makes a phone
9 call on my behalf, they generally assume it's for the
10 First Lady.

11 Q And so that's why the visitee is the First
12 Lady?

13 A It very well could be.

14 Q Mr. Barnett would have no independent
15 reason to go see you?

16 A No. On July 27th?

17 Q On July 27th, 1993.

18 A No, not that I know of. Not that I
19 remember.

20 Q Does he have any reason to go see you
21 subsequent to that date?

22 A Here at the White House?

1 Q Yes, Mr. Barnett?

2 A No, not that I ever remember. He may have
3 actually visited me on -- just to pass on materials
4 for Virginia Kelly's book.

5 Q Do you remember having any conversation
6 with Patti Solis on that day regarding a visit by
7 Mr. Barnett?

8 A No, I don't.

9 Q How about having a conversation with
10 Ms. Solis about a visit by Ms. Thomases?

11 A No, I don't.

12 Q With the First Lady about Mrs. Thomases?

13 A Having conversation with the First Lady --

14 Q With the First Lady about Mrs. Thomases
15 visiting?

16 A No, I don't.

17 Q Do you recall seeing Ms. Thomases at the
18 White House residence or in the White House on that
19 date in the afternoon?

20 A I don't recall.

21 Q Did you see Maggie Williams that day in the
22 residence?

1 A I very well may have. I don't recall.

2 Again, I have sort of learned more about this day
3 through testimony I've heard in front of the Senate
4 committee than I recall from my own personal
5 recollection.

6 Q Right. Right. So, subsequent you've come
7 to knowledge regarding their activities on that day,
8 but you don't have any independent recollection of
9 that?

10 A No, I do not.

11 Q So would it help for me to ask you, to tell
12 you that Mr. Barnett and Ms. Thomases and
13 Ms. Williams were together on that day, perhaps, in
14 the White House. Do you see, did you see the three
15 of them together on that day or any other day, does
16 that refresh your memory?

17 A No, I don't personally recollect seeing the
18 three of them there.

19 Q Did you hear any talk about files being
20 transferred to Mr. Barnett that day?

21 A Subsequently, in the newspapers and on
22 television.

1 Q When subsequently, approximately?

2 Recently, the time contemporaneous?

3 A Oh, no, I don't remember.

4 Q But from no independent source from your
5 work at the White House?

6 A No.

7 Q Do you remember seeing Diane Blair there
8 that week?

9 A I don't remember for sure, but I believe
10 that she was a house guest or something like that.

11 Q She was a house guest at the time. Do you
12 remember helping her out with any of her incidental
13 needs, as you testified earlier is your normal course
14 of duties?

15 A No, she's generally familiar with the
16 house.

17 Q Is she a frequent guest?

18 A From when until when, at that time was she
19 a frequent guest?

20 Q At that time.

21 A I believe that she'd only been there a
22 couple of times.

1 Q But sufficiently familiar that she didn't
2 need your help.

3 A Yes.

4 MR. BRAY: Can I ask a question on that?
5 (Discussion off the record.)

6 BY MR. DINH:

7 Q Do you on occasion make phone calls to
8 Ms. Thomases on behalf of the First Lady?

9 A I make phone calls on behalf of the First
10 Lady to many people.

11 Q Including Ms. Thomases?

12 A Including Ms. Thomases.

13 Q Do you recall making any such telephone
14 calls on behalf of the First Lady to Ms. Thomases on
15 July 27th, 1993?

16 A Let me clarify that if I'm making a phone
17 call, I'm returning it. I'm not, you know, dialing
18 it and then handing her the receiver. I'm generally,
19 you know, Susan's called, hey, she can't get with
20 you, she'll get with you later or something like
21 that.

22 Q Do you call for more specific task like

1 call Susan, tell her I'll be there at X time, not
2 necessarily returning a phone call, but delivering a
3 brief message?

4 A Yeah, I will call like I do with most
5 people for Mrs. Clinton. If I return a message, I'll
6 say, you know, she's in a meeting and she'll be back,
7 she'll be back in the residence in a few minutes or
8 whatever.

9 Q Do you remember either returning a call or
10 making a short phone call to deliver a message to
11 Ms. Thomases on the 27th of July, 1993?

12 A No, I don't recall.

13 Q Where is your office located in the White
14 House?

15 A My office is located in the east wing.

16 Q In the east wing of the White House itself?

17 A Yes, it is.

18 Q What floor?

19 A The second floor.

20 Q The second floor. And the residence is
21 also on the second floor?

22 A No, no, no. The residence is its own

1 entity and the east wing is a corridor that is
2 extended from the residence. I think it was added by
3 Franklin Roosevelt for housing the military in the
4 1940s. And then there are, I believe, three levels.

5 Q So the east wing being on the east side of
6 the building, the west wing being on the west side of
7 the building, in the center is the residence?

8 A Yes, it is.

9 Q And it's connected by this corridor?

10 A Yes.

11 Q And you're on the second floor of the east
12 wing?

13 A Of the east wing.

14 Q Of the east wing. There is access to the
15 White House residence from the east wing?

16 A Well, you go through the ground floor of
17 the east wing, and then you enter a door and you go
18 to the ground floor of the residence. The residence
19 is the original building that George Washington had
20 built, and then there were all the additions. So
21 once you go through the door, through the corridor,
22 you are into the residence.

1 Q I apologize for all the minutiae. I've
2 never had the privilege of being in the White House.

3 A I understand.

4 MR. BRAY: Let's break for dinner and go
5 over right now and feed you.

6 MR. DINH: That was on the record. I may
7 take you up on that.

8 BY MR. DINH:

9 Q So the only entrance to the residence is
10 through the ground floor?

11 A No. There is another entrance on the state
12 floor through the north portico. That's the front
13 door that everyone sees.

14 Q Do staff members use the state, the state
15 floor door?

16 A Yes.

17 Q So both are freely accessible?

18 A Yes.

19 Q To staff members or those who have access
20 to the White House residence?

21 A Yes.

22 Q Is access through the White House residence

1 limited to certain staff members or do all staff
2 members have access?

3 A If you have a blue pass.

4 Q Not all White House employees have a blue
5 pass?

6 A No.

7 Q I take it you have a blue pass.

8 A Yes, I do.

9 Q Now when you pass, when you pass through
10 either on the state floor -- let's call that the
11 state door -- or the ground door, at both of these
12 places your entry is recorded?

13 A No, it's not.

14 Q Is it recorded at either one of those
15 places?

16 A Yes, it is. On the ground level there is a
17 guard who is supposed to mark who enters, who goes up
18 into the residence.

19 Q Checks the identification, mark down who
20 enters, check the access?

21 A No, generally does not check
22 identification, and may give a call to the usher's

1 office and say I've got, you know, a blonde-haired
2 person who is going up, you know, and then the
3 elevator stops on one, or the person, if they're
4 going up the staircase, has to stop on one and
5 someone will see them there.

6 Q What about from the state door, what's the
7 procedure there if you were to walk to the White
8 House residence through the state door?

9 A Again, the ushers would see you pass by and
10 if you were trying to go upstairs or, what, if you
11 just want to enter the first floor?

12 Q Second floor, upstairs.

13 A If you wanted to go upstairs, generally the
14 ushers would see you and make note.

15 Q Okay. That's the usher at the state door,
16 not Secret Service guard?

17 A No, there is a guard at the door, but he
18 doesn't write anything down, no.

19 Q The guard at the door at the ground floor
20 does write things down, no?

21 A On most occasions I have seen them write
22 things down. Often I have not seen them write things

1 down.

2 Q But they always call, if the person wants
3 to go upstairs, they would call up to the ushers
4 upstairs and describe the person or tell the exact
5 identification of the person and to have an usher
6 meet the person upstairs?

7 A No, they don't. At times, because I
8 have -- there are many times that I've not seen this
9 happen. But if they remember, sort of, procedure
10 they'll pick up the phone and say I have a person
11 going upstairs, you know.

12 Q And then the usher would meet that person?

13 A The usher would make sure, look on the
14 elevator to see, oh, you know, it's me, hi, how are
15 doing. And somebody else, generally they have
16 business in the White House.

17 Q Now even if it's just the elevator up to
18 the first floor, or does this only, this procedure is
19 only for access up to the second and third floors?

20 A No, all levels.

21 Q At all levels?

22 A Yes.

1 Q Any level beyond the ground floor.

2 A Yes.

3 Q What's on the ground floor?

4 A The ground floor has the map room, the
5 diplomatic reception room, the vermeil room and the
6 library. Also I think there is an accounting room, a
7 large corridor and access to the kitchen, to the back
8 area where the carpenters and florists are.

9 Q And then the first floor is where the state
10 dining room is and the kitchen and all that stuff?

11 A No kitchen is on the first floor.

12 Q No kitchen.

13 A There's a dining room, there is a pantry,
14 there is the state dining room -- there's a family
15 dining room and there's a state dining room and the
16 red room, the blue room, the green room, the east
17 room, the grand foyer and --

18 Q The third floor is -- I mean, the second
19 floor is where the Lincoln bedroom is?

20 A The second floor is where the Lincoln
21 bedroom is.

22 Q Now let's go to the third floor. Is there

1 anybody controlling access between the second and
2 third floor?

3 A No, there is not.

4 Q So once you're up to the second floor, you
5 can go freely up to the third floor?

6 A Yes.

7 Q Can you describe for me the third floor,
8 what is on the third floor?

9 A You want me to tell you in detail what
10 rooms are up there?

11 Q Just what rooms are up there, yes.

12 A There are guest rooms on the third floor --

13 Q How many guest rooms?

14 A Are we going to note that someone came into
15 the room.

16 MR. DINH: Yes.

17 MR. BEN-VENISTE: Hello. Richard
18 Ben-Veniste.

19 THE WITNESS: Hi. Capricia Marshall. Nice
20 to meet you.

21 MR. BEN-VENISTE: Mr. Bray?

22 MR. BRAY: Bray is my name.

1 MR. BEN-VENISTE: John.

2 MR. BRAY: That's the one.

3 MR. DINH: Can you read back the last
4 question, please.

5 (The reporter read the record as requested.)

6 THE WITNESS: I think there are
7 approximately -- wait a minute. I can do it.

8 (Pause.)

9 Presently eight.

10 BY MR. DINH:

11 Q Are these occupied most of the time, are
12 some of them occupied most of the time?

13 A Yes.

14 Q At least there is one guest in there.

15 A Well, it also depends upon which time
16 period you're speaking of. If you have a specific
17 time period --

18 Q In general.

19 A Well, no, it really does. Because the
20 holiday time period, they're filled to the gills and
21 other times they may not be filled at all.

22 Q Sometimes there is nobody staying there?

80

1 A At times there is no one staying there,
2 yes.

3 Q Okay. Beyond the guest rooms, what else is
4 up there?

5 A At what time period? The configuration of
6 these rooms have changed over the years so it's --

7 Q Okay. Why don't we, why don't we start
8 with a rough -- no, why don't we start with the
9 configuration as of last year July and August of
10 1995?

11 A July and August of 1995. On the east side
12 of the house there is a -- there was a sort of a moon
13 shaped room that was used as a box storage, primarily
14 Chelsea-knickknack-item type of room. It had a day
15 bed in it and it has a small balcony that goes up
16 around it. But lots of box storage, games and
17 various other items. And the other significant room
18 on the third floor is a solarium. You need to go up
19 a ramp and it's a round room where there are windows
20 on most sides of the room except for, of course, the
21 ramp doorway area. It's a gorgeous view.

22 Q Does it look out to Pennsylvania Avenue?

1 A No, that's the south side of the house. It
2 looks out to the Washington monument. That's what
3 makes the view so great, you can see all the
4 monuments. And as you go down past the rest of the
5 guest rooms towards the west side of the house, at
6 that time, there is an office room that was being
7 used by Mrs. Clinton to write her book. And sort of
8 not quite next to, but the next door over on the west
9 side of the hall is the book room. You enter that
10 room and there's a book room and --

11 Q So the hallway is north-south -- is the
12 hallway north-south or east-west?

13 A The hallway is east-west.

14 Q And then you are walking west, you are
15 walking west and do you look left or right to find
16 the office?

17 A You look left.

18 Q You look left to find the office and then
19 you have a little office. And then past the office,
20 but next to it, is the book room?

21 A Yes.

22 Q And are there rooms further if you walk

1 along the hallway or does the hallway end with the
2 book room?

3 A The hallway ends with the book room.

4 Q So that's the last door on the left-hand
5 side, walking west.

6 A Yes, it is.

7 Q Now who -- you have access to this area as
8 a general matter?

9 A Yes, I do.

10 Q Who else --

11 A Did you want me to finish with the
12 description of the third floor?

13 Q Well, yes, can you round it out for me?

14 A Sure. Because there are a lot of rooms we
15 haven't touched upon. As you go through the book
16 room, as you go through the book room, you pass
17 through the book room into --

18 MR. IVEY: Could I interrupt, would it be
19 easier if she draw a diagram.

20 MR. DINH: No, that's fine. That's fine.
21 We could pursue that in a bit.

22 BY MR. DINH:

1 Q Let's walk around the hallway. Other rooms
2 on the other side of the hallway facing these two
3 rooms?

4 A Facing which two rooms?

5 Q Facing the entrance to the office and the
6 entrance to the book room on the right-hand side of
7 the hallway, if you are walking west, you said on the
8 left-hand side is the door to the office?

9 A Yes.

10 Q And then next to that is the door to the
11 book room?

12 A Yes.

13 Q Are there doors to the right-hand side
14 also?

15 A No, there's a wall.

16 Q There's a wall. So the White House starts
17 and ends with that hallway?

18 A There is a door that leads you down to
19 the -- down the staircase.

20 Q To the second floor?

21 A Back down to the second floor. And there
22 is also, as you go around the staircase, you enter

1 another doorway that leads you into the linen room
2 and into the back north corridor of housekeeping
3 rooms and storage facilities.

4 Q Okay. All right. Now, let's focus our
5 attention specifically on the book room itself.

6 A Okay.

7 Q And let me just -- actually I will give
8 you, thank you for the suggestion, Glenn, let me just
9 ask you to sketch out for me -- if you could take a
10 moment, to sketch out for me the layout of the book
11 room, and let me just mark it this way so that I
12 don't get confused.

13 MR. BRAY: Let me ask you this. Do you not
14 have actual diagrams of these rooms as such exist?

15 MR. DINH: No. I know, but we don't have
16 actual diagrams. We'd love the blueprints, but
17 unfortunately we do not have that. Let me just mark
18 that, and that's the west and the east.

19 THE WITNESS: Can I use her pen.
20 (Discussion off the record.)

21 BY MR. DINH:

22 Q On the record again. Ms. Marshall, you've

1 made for us a sketch here that is labeled Exhibit
2 Marshall 1, and it is a sketch, to the best of your
3 recollection and knowledge, of the book room during
4 the time of July and August 1995; is that correct?

5 A That is correct.

6 Q And it contains not only the diagram of the
7 room, but also the materials and furniture and other
8 materials in the room at the time or moved in -- that
9 may have been in the room at the time between in July
10 and August of 1995?

11 A Furniture?

12 Q Well, tables and --

13 A There's a table and a cart and some --

14 Q Right. Other material, not just merely a
15 layout of the room, but other materials that were in
16 the room.

17 A Yes.

18 Q Now, can you tell me in your own words what
19 these materials are. Are these there currently?

20 A Well.

21 Q The materials?

22 A Those same exact things are not there

1 currently.

2 Q But these are what you remember to have
3 been there in July and August of 1995?

4 A Within that time period on various moments,
5 yes.

6 Q Sometimes they were moved in, sometimes
7 they were moved out, you aren't exactly sure when
8 they were there.

9 A Exactly. There were certain items though
10 that continued to stay throughout the entire time.

11 Q And those items are?

12 A Well, here, this computer and the computer
13 rack that it's on, it's sort of a rolling rack type
14 deal, and that was in there. It continues to be in
15 there all the time.

16 This long, six-foot table is generally in
17 there all the time.

18 Q That is near the entrance to the room from
19 the hallway?

20 A No, it is against the west bookshelves and
21 it was most near the northwest side of the room.

22 Q Okay.

1 A Northwest corner of the room. So those
2 are --

3 Q And there's a door there that goes to the
4 hallway?

5 A It goes to the servants' enter/exit area.
6 The typewriter has been there continually. A cart of
7 some form is generally in the room, stacked high with
8 gifts and stuff and other items that come off of the
9 road. This is generally where my follow-up cart is
10 put after trips. The videos are always there. The
11 filing cabinets have been there since I can
12 remember. The bookshelves and the video shelves were
13 put in in early 1993, so at that time they're there.
14 Now they're there.

15 Q So the crib and the baby carriage is no
16 longer --

17 A I know that right around that time, Tyler,
18 the President's nephew was in town, and at times we
19 store the crib and we store the baby stroller in
20 there. So exactly what date it was put in and what
21 date it was put out, I don't know for sure.

22 Q The table, however, has been in there this

1 entire time?

2 A The table was in there the entire time.

3 Q Since July until the present?

4 A Well, I can't -- not until the present
5 time, until today?

6 Q Yes, is the table still there today?

7 A Yes, actually it was, from that moment
8 until today.

9 Q The table has been there?

10 A Yes.

11 Q And that's the only table in the room?

12 A Well, there's a small sort of shelf type
13 table that extends from the bookshelves.

14 Q Built in.

15 A Right.

16 Q But that's the only freestanding piece of
17 furniture that is a table in the room?

18 A Yes, except for, I mean the cart sort of
19 functions as a flat surface.

20 Q And what is this table used for?

21 A This table is generally used for putting --
22 or it was just holding books, newspapers,

1 miscellaneous items, newspaper clippings, magazines,
 2 photos, memorabilia, things that were supposed to be
 3 looked through and put away by Carolyn Huber. She
 4 was doing a library filing system. And she was
 5 trying to put one together and she just, sort of,
 6 never finished it or got around to it.

7 Q Is she the only person working on this task
 8 of this filing and cataloging?

9 A No, she has a couple of volunteers, I
 10 think, that were helping her with this at one point.
 11 And I think I recall that the one woman started a
 12 class or something like that, and so she stopped
 13 working on it. So things started to pile up and pile
 14 up and pile up.

15 Q I see you marked, I guess, underneath the
 16 table there are some boxes, are they underneath the
 17 table?

18 A Today are they underneath the table or
 19 then?

20 Q Then are they underneath the table?

21 A Yes, then they were underneath the table.

22 Q Today?

1 A No, there are no boxes underneath the
 2 table.

3 Q There are boxes underneath the table. Were
 4 there boxes around the table?

5 A Yes, there are boxes around the table.

6 Q And what did these boxes contain?

7 A The same type of items, books,
 8 miscellaneous items, newspaper clippings, magazines,
 9 various items like that.

10 Q Now these bookshelves that you have drawn
 11 around the room, are they filled?

12 A Some are with books, not filled completely,
 13 no. That's the project, is to fill the shelves.

14 Q What kind of books are kept there?

15 A Oh reference materials, large picture
 16 books, psychology, history, bibles.

17 Q Hence the book room.

18 A Yes.

19 Q Is there another library in the residence?

20 A Well, there's the official White House
 21 library that's on the ground floor.

22 Q Right.

1 A Do you mean the other --

2 Q In the residence itself.

3 A Well, the Clintons have a lot of books.

4 And so they, any available bookshelf space they have

5 filled with it. On the third floor along the north

6 wall, there are shelves all along there that are

7 filled with books. Downstairs in the second floor

8 there are shelves filled with books and the

9 President's study and their bedrooms, there are

10 books.

11 Q So this is one of the many places where the

12 Clintons keep their books?

13 A Well, no, these are, this is general

14 storage area. This is sort of the stuff that you

15 don't want to, you know, you just put onto the shelf

16 because it's nothing, you're not really going to look

17 at day to day or you might never look at.

18 Q Can you tell me -- oh, and you have doors

19 marked here going to the main hallway, to the

20 exercise room, to the linen room and then to the

21 elevator and butler, cook, and valet services and

22 then there's another small hallway in the back

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1 there.

2 A Yes.

3 Q That's the back hallway?

4 A Yes.

5 Q So this is a walk-through room?

6 A This is a passageway.

7 Q Approximately how big is this room?

8 A Oh, I don't know in numbers, in feet. I

9 mean, it's a little smaller than the room we're in

10 right now. I don't know if that helps you.

11 Q Does 12 by 25 sound right?

12 A I'm not very good at those guesstimations.

13 Q Well, we'll leave it at that. Because I,

14 too, am not very good at guesstimations, so I don't

15 know what the length of this table is.

16 MR. IVEY: We can just say it's 640A of the

17 Hart building and maybe come up with the numbers from

18 the architect if necessary.

19 THE WITNESS: Do you want me to describe

20 what the room looks like?

21 BY MR. DINH:

22 Q Well, better than your diagram here?

- 1 A No, just the only other thing to note would
2 be that there's dim lighting in there. There is
3 these sort of pinpoint little light-things.
4 Q Like a modern track lighting type of bulbs?
5 A Yes, but they're these small -- and they
6 look sort of peachy colored and the floor has got,
7 like, plank woods. It's unfinished wood floors.
8 Q Is it cleaned on a regular basis?
9 A No, no.
10 Q So it is a storage area.
11 A It's like your attic. It's like your mud
12 room. It's like, you know, the back of your garage.
13 It's a place where you just sort of put things until
14 you get to it.
15 Q Does anybody work in there?
16 A I do. I mean, I don't always work in
17 there, but when I have a moment, that's when I go up
18 and I do work off of the cart.
19 Q You work off of the cart because that's
20 where you put your follow up stuff?
21 A That's where the follow-up stuff is put for
22 me to get to.
-

- 1 Q Is there a phone in there that you use?
2 A Yes, there is a telephone in there.
3 Q Do you sit at a chair by the cart?
4 A No, I generally stand and just dig through
5 boxes and look into items.
6 Q And so based on this workstation you have
7 on there, would you characterize yourself as the
8 person who is the primary user of this space?
9 A Yes, I would characterize myself as the
10 primary user.
11 MR. BRAY: Let me ask for clarification.
12 I'm not sure I heard what you said. "Workstation"?
13 BY MR. DINH:
14 Q "Workstation" meaning the cart, meaning the
15 station at which one works. That is the cart on
16 which she puts her follow-up stuff and has the phone
17 on it.
18 A The phone is not on it. The phone is over
19 here. I marked it telephone. That's on that
20 extended shelf area.
21 Q Right.
22 A And the cart is not, I don't put items on

1 it, generally. Generally, other people put items on
2 it and roll it in.

3 Q Who else has -- who else uses the room on a
4 regular basis or has access to the room in a regular
5 basis?

6 A During this time period?

7 Q During this time period.

8 A During the July, August 1995 time period.

9 Q Uh-huh.

10 A In the July August 1995 time period, there
11 were construction workers who would pass through
12 there, supervisors of construction workers, the
13 residence staff carpenters, plumbers, painters,
14 maids, butlers, valets, cooks, the ushers, the
15 doormen, the operations guys, the house guests,
16 friends of house guests, Chelsea's friends, family
17 members, friends of family members, First Family.

18 Q Does Ms. Huber come in on a regular basis?

19 A Ms. Huber. Not on a regular basis. Not to
20 my knowledge does she come in on a regular basis. I
21 have only seen her on several occasions.

22 Q Okay. But you said that the work that is

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1 there on the six-foot long table is there intended
2 for Ms. Huber in her library cataloging project?

3 A Yes, it is intended for her and it keeps
4 piling up. And it's not to say she's careless or
5 anything like that, it's just to say that it's a
6 rainy day project. It's something you finally get
7 to.

8 Q What about the during this period, were the
9 assistants who helped Ms. Huber on this project
10 around?

11 A During this time period?

12 Q Uh-huh.

13 A I don't recall them being around, no.

14 Q Let's start with the first group of people
15 in your testimony. The construction workers, the
16 carpenters and their supervisors. What sort of
17 construction are they doing?

18 A Actually, there were two things I
19 specifically recall going on during that time
20 period.

21 MR. DINH: Off the record. I'm sorry.
22 (Discussion off the record.)

1 MR. DINH: Can you read back the answer.

2 (The reporter read the record as requested.)

3 BY MR. DINH:

4 Q Can you continue?

5 A There is HVAC system project going on and
6 workers were working in the exercise room, in the
7 southwest corner of the room. They were entering a
8 cubbyhole area and doing work within that cubbyhole
9 area, and they moved the TV out of the way. And I
10 remember that because they ripped the wall paper and,
11 so. But they would generally come in from this
12 service hallway, cross the book room and enter into
13 the exercise room constantly, back and forth, back
14 and forth.

15 And another project that was going on, not
16 because it was intended, but another -- a worker was
17 working in the attic area of the house -- or it's
18 just above the space, it's like a crawl space I
19 guess, again, that's above the book room -- and maybe
20 slipped or footing or something like that, but
21 started to come through the ceiling. And paint,
22 plaster chips came down and I was in the book room at

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1 that time. And I thought this man was going to fall
2 through on my head, and I ran out of the room and I
3 went downstairs and I told the ushers that someone
4 was coming through the ceiling. So they stopped all
5 the work above there and they -- it was like, I
6 think, a day or two later they asked me to help move
7 the cart.

8 So the operations guys came up, we moved
9 some stuff out. We moved things close into the west
10 side of the room so that they could access the
11 northeast corner of the room, because that's where
12 the guy sort of entered through. We threw sheets
13 over the table and over the filing cabinets so dust
14 wouldn't get in any of the stuff, on any of the books
15 or anything like that, and everything else was pretty
16 much moved to the wayside or out of the room.

17 Q Do you recall when, approximately, that
18 this man almost fell on you?

19 A Yeah, I think it was the last week -- it
20 was the last week in July and --

21 Q And did he -- he entered through the
22 ceiling access in the book room, he entered the crawl

1 space above?

2 A No, no, no. He must have entered through
3 some other area.

4 Q Is there a ceiling access in the book room?

5 A No, there is no ceiling access in the book
6 room.

7 Q So the second construction project to which
8 you were referring, is this effort to --

9 A Repair.

10 Q -- repair the ceiling?

11 A Yes.

12 Q How long did that take?

13 A A couple days. A couple days.

14 Q And what about the other project, the HVAC
15 project, when did that start? Was it before or after
16 your fall -- or somebody else's fall?

17 A It was before the fall and during and a
18 little bit after. They were going through there for
19 quite some time. From what I understand, they were
20 trying to access various areas all around the third
21 floor, and that was one of the integral areas.

22 Q And do you recall approximately how long

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1 this lasted?

2 A Oh, a few weeks. Maybe, you know, three,
3 four weeks.

4 Q So it started somewhere in mid-July and
5 went through somewhere in mid-August?

6 A Yes, but picked up, though, with other
7 projects in mid-August because the Clintons were
8 leaving. They went to Wyoming. And so, when the
9 Clintons are leaving to Wyoming, they pretty much
10 tore the whole third floor apart.

11 Q But prior to that there was only these two
12 construction projects?

13 A That's the one thing I remember going on.
14 Because I was in this room preparing for their trip
15 to Wyoming as well, and Mrs. Clinton's possible trip
16 to Beijing. And we had to sort of use this room as a
17 preparation room because most of the other rooms were
18 already being torn up in sort of anticipation of
19 their trip to Wyoming.

20 Also, at that time in the computer room,
21 Mrs. Clinton was in the, I call it the computer room,
22 and there were staff members who were away on a

1 preadvanced trip so I pretty much stationed myself
 2 there to answer the telephone and, you know, give her
 3 messages back and forth and she was working with her
 4 editor. So I pretty much sort of stationed myself up
 5 there to kind of staff her.

6 Q The maids and the butlers and the doormen.
 7 Actually the maids and the butler, do they go through
 8 that room, basically in order to gain access either
 9 to the living room or the hallway to the elevators in
 10 the back?

11 A They will. They'll go through this area.

12 Q The main hallway to the back hallway?

13 A Yes, there is another doorway here. But
 14 they will, they'll go through the book room to get
 15 out to the main hallway. They'll go through the book
 16 room to get to the living room. They'll go through
 17 the book room to get to the exercise room.

18 Q Do any of these people, except for the
 19 construction workers who were repairing the damage in
 20 the book room itself, do any of these people
 21 regularly stop and linger in the book room itself?

22 A Well, I've walked in -- I've walked in and

1 I've seen construction workers having coffee breaks.

2 Q In the book room?

3 A Yes, they'll be setting down their
 4 Styrofoam cups and things like that.

5 Q Are these the same construction workers who
 6 were fixing the ceiling, or are these the HVAC
 7 construction workers?

8 A HVAC construction workers, generally.

9 Q Is there a coffee maker in the room?

10 A No, no. I mean, they'll just sort of be
 11 hanging out. I've found Styrofoam cups in there.
 12 I've found banana peels in there. Things like that.
 13 I'm sorry, what was the --

14 Q The maids and the butlers, do they also
 15 linger or do they pretty much use it as a passageway?

16 A Yes, they'll use it as a passageway. Also,
 17 if I'm in there, they'll hang around and chat with me
 18 and we'll talk about stuff and then they'll go on to
 19 their other business. But they don't have any reason
 20 to, like, specifically do anything.

21 Q They have no specific duties or functions
 22 that would call for them to be in the book room other

1 than chatting or passing through?

2 A Sort of, you know, sometimes they'll sit on
3 top of the table, push over some stuff and sit on the
4 table and hang out with me.

5 Q What about the doorman, did you say the
6 doorman and the ushers?

7 A Pretty much the same functions. The
8 doormen, they'll come up and go through it.

9 Q Use it as a passageway?

10 A Yeah.

11 Q And you say guests and families of guests.
12 And what use do they have to pass through the book
13 room?

14 A Well, I mean, I think that guests and
15 friends of family and friends of guests, they're
16 generally curious people. Let's face it, they're in
17 the White House. So they'll poke around looking
18 around everywhere.

19 Q And they can do so unescorted?

20 A Oh, absolutely. The Clintons want their
21 home to be an open place. They've always wanted that
22 from the get-go. They want this place to be a

1 comfortable place for their daughter and their
2 daughter's friends. She got there when she was 13
3 years old, just turned 13, and they even asked Secret
4 Service guards to go down from the second floor so
5 she wouldn't run into them with squiggly things in
6 their ears and guns.

7 So they really want this to be -- and they
8 also are people who have been in the public life for
9 a long period of time. They've lost their, sort of,
10 sense of privacy and people go in and out. They just
11 do. They exit and entrance. And also there is
12 videos in this one corner, there are video movies,
13 and so people come in all the time to borrow video
14 movies. Get them, and the guest rooms have VCRs.
15 And they'll go in and get the video and go back to
16 their room and watch it.

17 Q So it's a safe assumption, if a guest is in
18 the White House, then he or she has access to and
19 would have would probably have reason to, because of
20 the video and other curiosity factors, to go to the
21 book room?

22 A Absolutely, and also to go to the exercise

1 room. Everyone is welcome to use the exercise room.

2 Q It is not limited to anybody?

3 A No, no.

4 Q Is that the only exercise room in the
5 residence?

6 A Yes.

7 Q Is it a fairly comprehensive exercise room?

8 A Oh, yes, there is a great treadmill,
9 Stairmaster, and I don't know what those bikes are
10 called.

11 MR. BRAY: Recumbent.

12 THE WITNESS: Recumbent bikes. They give
13 great back support system. There is lots of weight
14 lifting. There are about four or five machines of
15 weight lifting bars and weights and things like
16 that. Then there is a whole rack of weights. There
17 is a bench, there is those sliding things that you
18 get on and you sort of slide back and forth and you
19 do aerobics. Those are great.

20 BY MR. DIHN:

21 Q So do guests, do guests on occasion use
22 this exercise room?

1 A Yes.

2 Q Who else uses the exercise room?

3 A Family.

4 Q Staff?

5 A Yes, staff uses the exercise room.

6 Q Attorneys of staff?

7 A Not yet. I don't know, you know.

8 (Laughter).

9 Q Family and guests and staff?

10 A Yeah.

11 Q Does President Clinton exercise in the
12 exercise room?

13 A Oh, yes.

14 Q Does he do so on a regular basis?

15 A I don't know about a regular basis. I
16 mean, what do you mean by regular basis?

17 Q Two times a week.

18 A Oh, you know, someone will say yeah, he's
19 upstairs in the exercise room, but I don't know if
20 he's actually exercising up there.

21 Q But it's a regular regime; it's not, say,
22 when you say he's exercising, everybody goes gaga?

1 A He tries. We all try. I think he tries.
2 He jogs a lot.

3 MR. IVEY: Can we go off the record for a
4 second.

5 (Discussion off the record.)

6 BY MR. DINH:

7 Q What about the First Lady, does she
8 exercise on a regular basis?

9 A As well she tries, you know, to go
10 exercise.

11 Q In the same category as the President?

12 A Yes.

13 Q As regularly as she can?

14 A Yes.

15 Q So she would have access, she would have
16 reason to pass through the book room on a regular
17 basis?

18 A You know, I don't know what a regular basis
19 is. I mean, if she tries to catch it on one day and
20 not on the next, I just don't know how often she -- I
21 never recorded the times she went and she exercised.

22 Q Right. Two times a week?

1 A I mean, I don't know.

2 Q Focusing on the period between
3 approximately the end of July to the beginning of
4 August, that is the last 10 days of July and the
5 first 10 days of August, July 20th through August
6 10th of last year. Were you working in the book room
7 during this period?

8 A I'm sorry. I fuzzed. What?

9 Q At the end of this period that we're
10 talking about, the end of July, beginning of August,
11 July 20th through, say, approximately August 10th of
12 1995 last year, were you working in the work room?

13 A Yes, I was.

14 Q Daily?

15 A Yes, I was.

16 Q But you didn't, did you spend the majority
17 of your time in the book room?

18 A Probably.

19 Q During this period.

20 A During this period, more so in August
21 because Mrs. Clinton started spending more time
22 beginning of August working on her book. I did spend

1 a considerable amount of time in there, though, when
2 she was up there in July, when she would go up I
3 would go up and work on follow-up, work on other
4 items. And like I said, you know, around the end of
5 July when staff was out of town. And so we had to
6 accommodate, and I kept up communications between
7 staff members and Mrs. Clinton.

8 Q Now during this time, you have drawn us a
9 diagram of this, of a six-foot table with materials
10 on top of the table. And boxes containing materials
11 underneath the table and some boxes around the table,
12 as you testified earlier.

13 At any time during this period, did you see
14 anybody add or take away any materials on, around or
15 below that table?

16 A I never saw anyone add or take away, but
17 items would pile up.

18 Q Items would pile up. So you would notice
19 items that weren't there before --

20 A Well, it just seemed as though the piles
21 got larger and larger over time.

22 Q Not any specific items, just your general

1 impression that there were things being put there
2 that were not being taken away.

3 A Yes.

4 Q Do you have any recollection of any
5 specific items that may have caught your eye?

6 A No. It's so stacked with so many things;
7 it's very difficult to distinguish one item from the
8 next.

9 Q Did you ever see Carolyn Huber during this
10 period, working or cataloging or looking at things in
11 the book room?

12 A No, I don't.

13 Q Did you see her in the book room at all?

14 A No, I don't remember. I mean, she may have
15 been passing through there but I don't recall.

16 Q Did you see Maggie Williams entering or
17 exiting this room during this period?

18 A No, I don't remember.

19 Q Did you see her on the third floor?

20 A During this time period?

21 Q During this time period.

22 A I really don't remember with any

1 specificity if she was upstairs. I mean, because
2 Mrs. Clinton was spending some time, and if I'm in
3 the book room she could be up there. I don't know.

4 Q But you don't remember any specific time
5 during which Ms. Williams was up there with the First
6 Lady?

7 A No, I don't.

8 Q It may have happened, you don't remember or
9 you simply don't have any recollection?

10 A I don't have any recollection of her being
11 up there.

12 Q Do you know David Kendall?

13 A Yes, I do.

14 Q In what context do you know or just know
15 him --

16 A I know him as Mrs. Clinton's attorney.

17 Q And do you see him on a regular basis in
18 that capacity? That is, would you recognize him if
19 you see him?

20 A I would recognize him if I saw him, yes.

21 Q Did you see David Kendall in the book room
22 during this period?

1 A No.

2 Q Entering or exiting?

3 A I have no recollection of seeing him.

4 Q Did you see him anywhere in any of the
5 rooms adjacent to the book room, like the exercise
6 room or something like that?

7 A No, I have no recollection of seeing David
8 Kendall in those areas.

9 Q Did you see him on the third floor?

10 A No, I have no recollection of seeing him on
11 the third floor.

12 Q How about Neel Lattimore, do you know Neel
13 Lattimore?

14 A Yes, I do.

15 Q What is his position?

16 A He is deputy press -- deputy press
17 secretary.

18 Q To the First Lady?

19 A Yes, to the First Lady.

20 Q Who is the press secretary?

21 A Lisa Caputo.

22 Q So Neel reports to Ms. Caputo?

1 A Yes, he does.

2 Q Did you see him entering or exiting the
3 book room during this period of time?

4 A No, I have no recollection of seeing Neel
5 during this time.

6 Q In the third floor?

7 A No, I have no recollection of seeing Neel
8 on the third floor.

9 Q How about -- well, any of the rooms
10 adjacent to the book room? It's probably encompassed
11 in your earlier answer. I just want to be clear.

12 A No, I don't have any recollection of seeing
13 him in any of those rooms.

14 Q Not even the hallway?

15 A I just don't recollect seeing him up there.

16 Q During this period, do you recall seeing
17 Patti Solis entering or exiting the book room?

18 A No, I have no recollection of seeing her
19 enter or exit the book room.

20 Q On the third floor?

21 A On the third floor?

22 Q How about any --

1 A Anywhere on the third floor?

2 Q Anywhere on the third floor.

3 A No, I don't remember her entering or exit
4 anywhere on the third floor.

5 Q How about guests during this period, during
6 this specific approximately 20-day period, guests to
7 the White House; do you recall any one of them during
8 this period, being present while you were there in
9 the book room?

10 A No, I don't remember any guests being
11 present in the book room.

12 Q Did you see any guests enter or exit the
13 book room during this period?

14 A People pass through all the time. I
15 couldn't specifically name this person or that
16 person, but people were always passing through.

17 Q But none that you would know or identify as
18 a guest?

19 A Well, you know, I can't say with absolute
20 certainty, but I'm sure that there were people. I
21 mean -- no, I can't identify any specific person who
22 was going in and out of that room, but there were

1 many people who would pass through that room.

2 Q They may have been a guest, you just didn't
3 know?

4 A I just didn't make it noteworthy.

5 Q How about, did any guest during this period
6 of time use the exercise room?

7 A I can't, I guess again I can't say with
8 absolute certainty. Just, I noted people would go in
9 and use it people would go out. During that time
10 period, there was lots of family staying. Lots of
11 family. I think that most of the guest rooms were
12 filled with family members and friends of family
13 members, and they would go in and out freely.

14 Q Any particular reason why this period was
15 very popular for family members?

16 A Nothing comes to mind as to specifically
17 why they all came to town.

18 Q Did you give a tour or direct anybody who
19 was a guest to the exercise room or of the book room?

20 A Did I give --

21 Q Like, did anybody ask you where is the
22 exercise room who was a guest during this period?

1 A They very well may have. It's not
2 something that I note. People do that on occasion,
3 yeah.

4 Q Do you recall giving any such directions to
5 anybody during this period?

6 A Again it's just not noteworthy to me, so
7 no, it just doesn't come back to me if I gave
8 specific direction.

9 Q So I take it that you see, on a regular
10 basis, people in the third floor of the White House
11 whom you did not recognize.

12 A Oh, yes, there are people that have been on
13 the third floor of the White House that I have not
14 recognized.

15 (Discussion off the record.)

16 BY MR. DINH:

17 Q Do you specifically remember seeing
18 anybody, do you specifically remember seeing anybody
19 during this period -- I know I said -- I ask you just
20 to focus, bear with me a couple more minutes --
21 during this period, lingering or, you know, working
22 or standing in the book room, whom you did not

1 recognize and whom you did not readily identify as
2 one of the maids, butlers or construction workers?

3 A No, I don't recall that with any
4 certainty. People were in and out all the time.

5 Q Is there a sign-up log for the videotapes?

6 A No, there's no sign-up log for the
7 videotapes.

8 Q People just take it -- take it to their
9 rooms?

10 A Yeah, they've lost a lot of them because
11 people just take them, family members take them
12 home. And things like that.

13 Q Perhaps they should ask the FBI to
14 institute security procedures there.

15 You testified earlier that your duties do
16 not normally encompass recordkeeping or handling of
17 any records for the First Lady. Have you ever
18 handled any documents relating to the Rose Law Firm?

19 A No, I have not.

20 Q Have you seen any such documents?

21 A No, I have not.

22 Q Let me ask you to study what I'm about to

1 give you -- and I'll identify as DKS 28928 -- and
2 ask you just to look at those, thumb through those
3 really quickly.

4 (Witness reviewed the document.)

5 Have you ever seen anything like this
6 before?

7 A No.

8 Q Have you seen any larger 11-by-17
9 enlargements of similar records?

10 A No. That type of -- the only thing that
11 looks any type similar is the paper.

12 Q The computer printout?

13 A The computer printout paper is under
14 Chelsea's computer. She has some computer paper
15 that's got holes on the sides. It's an old computer.

16 Q Chelsea's computer is located where?

17 A Well, the old computer, her old computer is
18 located in the book room.

19 Q In the book room. That's the computer that
20 you have marked here --

21 A Yes.

22 Q -- against the south wall of the thing,

1 next to the exercise room?

2 A Right.

3 Q What size is that paper?

4 A It's about -- it's that size.

5 Q Normal 8-1/2-by-11?

6 A Yes.

7 Q Have you ever seen paper of that size or
8 photocopies of papers of that -- not of that size,
9 but of that type, that is an 11-by-17 sheet of paper?

10 A No, I have not.

11 Q A sheet of paper that measures 11-by-17
12 pages?

13 A Have I seen?

14 Q Have you seen around the book room the
15 paper, that is computer generated paper, with holes
16 on the side with perforated edges in order --
17 designed to go through a computer?

18 A I don't recall ever having seen anything
19 like that. I mean, something like that could be
20 there, but I just don't recall ever having seen it.

21 Q Any photocopies of such things? It's
22 fairly a large size piece of paper.

1 A I don't recall ever having seen anything
2 like that. Something could have been there, but I
3 just don't recall ever having seen it.

4 Q How about on the table -- directing your
5 attention specifically to the table itself. Have you
6 ever seen any such things there?

7 A Oh, no, I don't recall seeing anything like
8 that.

9 Q You testified earlier, this is mostly
10 memorabilia and pictures and books, and the like?

11 A Yeah.

12 Q Any loose paper on the table as a general
13 matter?

14 A Oh, sure, there is lots of loose paper.
15 I've never identified any paper or anything like
16 that, but there is various types of sheets of paper
17 and folders, and those accordion type folders.

18 Q Right, Redwell folders.

19 Have you ever seen during this period
20 between July 20th and August 10th, 1995 a stack of
21 approximately 1 inch thick of 11-by-17 paper, may
22 have been folded, on that table?

1 A I have no recollection of ever seeing
2 anything like that in that room.

3 Q In that room or on the table?

4 A On that table.

5 Q Or in the room?

6 A I have no recollection of seeing anything
7 like that on that table or in that room.

8 Q Have you seen anybody carry such documents
9 as I have described anywhere around the third floor
10 of the White House?

11 A No, I have no recollection of ever having
12 seen anyone carry any of those documents, documents
13 like that around the third floor of the White House.

14 Q The second floor?

15 A I have not seen anyone carry documents like
16 that on the second floor of the White House.

17 Q Have you heard, at the time -- let me focus
18 your attention to at the time and times prior, have
19 you heard of any discussion or have any familiarity
20 with anything having to do with Rose billing records?

21 A The only type of conversation that I would
22 have heard of is through the newspaper accounts and

1 things like that, that they were looking for some
2 records. We also -- I also received subpoena, a
3 general subpoena or memorandum about a subpoena
4 through White House counsel looking for those
5 records.

6 Q Approximately when did you receive this
7 memorandum?

8 A I don't recall. I mean, I'm trying to
9 remember.

10 Q Several years ago?

11 A Oh yeah, it was a couple years ago.

12 Q Looking for records like that, Rose billing
13 records?

14 A Anything that was relating to -- in
15 reference to, you know, that type of stuff, Madison
16 and the Rose Law Firm.

17 Q Specifically naming Rose law firm?

18 A Yeah.

19 Q You mentioned that you would have heard of
20 it from newspaper accounts. Do you generally keep up
21 with the newspapers?

22 A I try.

1 Q And follow the story of the -- of what
2 various investigators are seeking with respect to the
3 records?

4 A Well, if I catch it on occasion. I mean,
5 there is something that's going on. I mean, you have
6 so much going on day to day that trying to keep up
7 with what's happening, you know, up here is a little
8 tougher.

9 Q Now, let me direct your attention to,
10 toward the period of the beginning of this year, the
11 first week of this year, of January of 1996.

12 A Okay.

13 Q Did you hear prior to January 4th, 1996,
14 did you hear any talk or have any discussions within
15 the context of your duties at the house White House,
16 or when you were at the White House, or with other
17 people at the White House regarding Rose Law Firm
18 billing records?

19 A No.

20 Q Did you have any such conversations after
21 January 4th, 1996?

22 A Regarding these --

1 Q Rose Law Firm billing records.

2 A To date you mean?

3 Q Yes.

4 A Just regarding Carolyn Huber's testimony
5 that, you know, that she had found something like
6 that.

7 Q When was the first time you heard that
8 Carolyn Huber found something like that?

9 A I don't recall exactly, but I think it was
10 like on C-Span or CNN, or something like that -- CNN
11 rather -- that it came across that they had been
12 found. And it was like, you know, mid-January --
13 second week of January or something like that.

14 Q And did you have subsequent conversations
15 with people you work with regarding those records?

16 A Just sort of surprise and, you know,
17 wonderment, and trying to figure out how she could
18 have found them, and the way that she found them,
19 why.

20 Q With whom were you having these
21 conversations?

22 A Oh, a variety of people. I mean,

1 everybody. It was just sort of office talk.

2 Q General talk of the office?

3 A Yes.

4 Q Was this the topic of the day, as it were,
5 when it came up?

6 A Was this the topic of the day?

7 Q Was it the topic that everybody was talking
8 about generally?

9 A Yes, generally, I mean, people were just
10 sort of, you know, did you hear, did you see type of
11 conversation, and sort of drop it, you know, it was
12 just --

13 Q Your answer was that you did not see but
14 you had heard?

15 A No, no, no. That you saw on television or
16 did you read in the newspaper. That's what I mean.

17 Q Have you had -- during the course of these
18 conversations that you've had subsequent to their
19 discovery, have you gained any knowledge that
20 would -- any knowledge that is independent of any
21 knowledge you gained through news reports? That is,
22 did you gain any new information with respect --

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1 during these conversations that you had not learned
2 before during news reports?

3 A No.

4 Q And I take it you have no independent basis
5 of information regarding these Rose Law Firm billing
6 records, independent of the news reports?

7 A No.

8 Q Do you have anything else to add regarding
9 the circumstances of how they were lost, or how they
10 were found in the book room, these Rose billing
11 records? Do you have any other information regarding
12 the circumstances on how they were lost or how they
13 were found?

14 A Oh, it just is -- it just seems, you know,
15 sort of surprising to me. It just doesn't seem that,
16 you know, one and one makes two in the scenario.
17 That's all.

18 Q Can you explain what is the one and what is
19 the other one, and what is the two?

20 A If we take -- you know, and I am going by
21 newspaper accounts and television reports, but, you
22 know, I take for fact that she actually found --

1 "she" being Carolyn -- the documents in a box in her
2 office. And she found it at the beginning of
3 January. And she was very surprised that she found
4 the document in the box in her office. But at the
5 same time she says oh yeah, and I remember exactly
6 where that was, on that empty table. I mean, the
7 table wasn't ever empty and, you know, to have such
8 instantaneous memory of that document being on the
9 corner of a table, I mean, to me is kind of odd. And
10 also, you know, I mean, she's sort of, she's the
11 office manager and, you know, why --

12 Q Office manager of Rose Law Firm?

13 A She was the office manager for the Rose Law
14 Firm for a while. She picked up and sort of looked
15 at the document, and I mean, from what I understand,
16 she picked it up and put it in a box. Why didn't she
17 see that it was a billing record then. It's just
18 all -- and it's not to say -- Carolyn is a hard
19 worker. She's a really hard worker. And, you know,
20 she just -- sometimes we're overburdened and there's
21 a 25 percent cut in our staff. Everybody is doing a
22 lot of work. Everyone is doing a lot of jobs.

1 So I'm just, I'm trying to figure it out.
2 You know, I'm trying to figure out the story, I'm
3 trying to figure out why her account is just so -- to
4 me just doesn't add up.

5 Q Now, I know that information you have with
6 respect to the discovery of the records are all based
7 upon news accounts, and basically independent news
8 accounts, and you have no independent knowledge or
9 information regarding that. However, you have much
10 better firsthand knowledge, being the primary user of
11 this space in the book room, that the records were
12 removed allegedly at the end of July and in August.

13 Does that knowledge contribute to your
14 estimation that you just gave to me earlier regarding
15 how the story doesn't add up, quote unquote?

16 A I'm sorry. You're going to have to state
17 that one again. You lost me.

18 Q Part of your answer earlier was that the
19 table was not empty. It was full with other things
20 on the table, other things, and it was not completely
21 empty as Ms. Huber has apparently testified in news
22 accounts that you've heard.

1 This answer, your answer, your statement in
2 that answer breaks down to two bases of knowledge.
3 That is, one is the information you've heard
4 regarding their discovery is from news reports
5 that -- regarding Ms. Huber's testimony as to how she
6 found the records. The other half, however, are
7 based on your knowledge of the book room, and your
8 memory of what was contained in it and its state at
9 the time of -- end of July and beginning of August?

10 A Yes.

11 Q So is your testimony that, quote, it
12 doesn't add up, end quote, depend on both halves of
13 that answer? That is, your knowledge of -- your
14 knowledge of the book room, of the conditions of the
15 book room, and the circumstances in the book room,
16 and what materials are there, because I don't have
17 that knowledge, and in light of that the information
18 that you've garnered through news reports?

19 A My testimony is that the room, the state of
20 the room during that period of time was in disarray.
21 It has always been in disarray. It's always had
22 books stacked on top of tables and things that were

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1 just sort of disheveled. It just is very surprising
2 to me and that her testimony was, as I read it in the
3 newspaper, that she found it so, the document so
4 clearly marked, so clearly found. It's just --

5 Q Right. On a clean table, you mean?

6 A On a clean table.

7 Q Sitting in the middle of the table; is that
8 what you were referring to?

9 A Yes. I believe that she was saying it was
10 so clearly visible. I believe on a corner of the
11 table or something like that.

12 Q But the table itself, according to your
13 testimony, is filled with stuff all throughout the
14 entire -- the entire surface of the table was filled
15 with knickknacks and memorabilia and books or
16 pictures?

17 A Books primarily, magazines, news clippings.

18 Q It would have been unlikely to have an open
19 space on the table for something to be actually on
20 the surface of the table so clearly?

21 A It just -- it's not part of my
22 recollection. It's not something that I remember.

1 MR. BRAY: Viet, that's a lot more than
2 five questions.

3 (Laughter.)

4 BY MR. DINH:

5 Q And have now just to close out the loop,
6 you said that Ms. Huber, you did not see -- this
7 stuff keeps piling up in this particular desk or
8 table and around the table, and things weren't being
9 taken away.

10 And you did not see Ms. Huber collect these
11 materials and take them down at any time?

12 A No, I didn't see Ms. Huber come in and get
13 the materials.

14 Q After August -- after August 10th, let's
15 say, did you see Ms. Huber or one of her assistants
16 take these and catalogue them?

17 A No, I did not.

18 Q Are the boxes and all that stuff still
19 there now, as we speak?

20 A Well, there are boxes that are still within
21 the room. And there's carts and there are other
22 things all over the room. There's also, in addition

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1 to that, though, on the 6-foot table presently a fax
2 machine that was brought in, and a copy machine.

3 Q So it was cleared off somewhat in order to
4 make room for the copy machine and the fax machine?

5 A Yeah. You are asking me today, what does
6 that room look like today?

7 Q Right.

8 A That room has books stacked on top of it.

9 Q That table. You said the room.

10 A I'm sorry. The table has books stacked on
11 top of it, it has papers. There are pens, pencils.
12 There's a copier. There's a fax machine and a
13 computer monitor.

14 Q And so somebody has cleared some space on
15 that table in order to make room for all the
16 additional equipment?

17 A Yes.

18 Q You don't know who that was?

19 A It was myself.

20 Q You did?

21 A Yeah.

22 Q And where did you put the stuff?

1 A On the shelves behind it. I removed --
2 yeah.

3 Q But you didn't see Ms. Huber, during this
4 period in August and July, coming up there and
5 removing any boxes, or even a number of boxes, in
6 order to take them downstairs in order to catalogue?

7 A No.

8 Q Based on your -- based on your recollection
9 as to what materials were there, did you think that
10 she could have done it without your knowledge?

11 A Anything is possible. I don't know. Are
12 you asking me to assume something? I don't know.

13 Q You said things kept piling up and they
14 didn't seem to be removed, was your earlier
15 testimony.

16 A Yes.

17 Q Was that continuing through the period of
18 August 10th, 1995?

19 A Yes. It seemed to me -- I mean, I didn't
20 note exactly oh, there are five books in this pile
21 and seven books in this pile, and oh, I better make
22 sure that no one touched it. No. There is just a

1 mound, there was a mound of stuff.

2 Q And your earlier testimony, the mound was
3 being augmented --

4 A Not by a rapid rate. You might get a
5 couple of books here, a couple of books there. Not
6 every day was it growing into this astronomical
7 mound. It was just you can tell a few more things
8 were stacked on top.

9 Q Did anything get taken away at an
10 astronomical rate, at an astronomical rate or even a
11 gradual rate, during this time period?

12 A Nothing that was noteworthy to me.

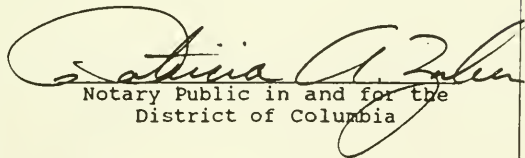
13 MR. DINH: That's all I have.

14 MR. IVEY: I have no questions.

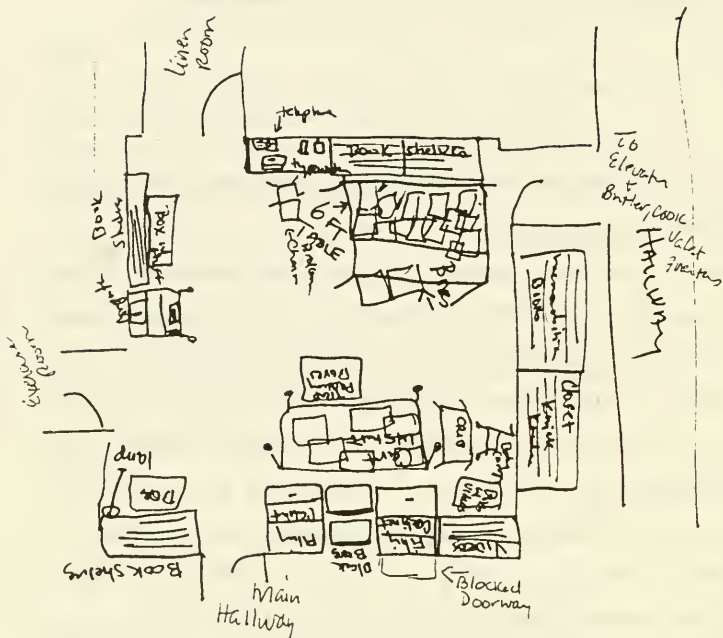
15 (Whereupon, at 7:15 p.m., the deposition
16 was concluded.)

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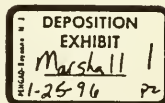
I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


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